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THE
CIVIL CODE
OF
JAPAN
PART II.



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THE
CIVIL CODE
OF
JAPAN.

PART II.

WITH AN INTRODUCTION TREATING OF THE
JAPANESE FAMILY SYSTEM, A FULL INDEX
TO THE WHOLE CODE, AND AN
APPENDIX GIVING THE MOST
RECENT LEGISLATION
ON THE SUBJECT.

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TOKYO : ^{8°} MARUYA & Co.

YOKOHAMA, SHANGHAI, HONGKONG & SINGAPORE.

KELLY & WALSH, Limited.

1899.

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JAP
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Rec. Apr. 13, 1900.

PREFACE.

The present volume is the sequel to that published by the translator in December 1897, and contains a translation of the remainder of the Civil Code, namely, Books IV. and V., which treat of Kindred and Succession. These were promulgated on the 15th June 1898, and the Code being thus complete came into operation on the 16th of the following month. The translation is accompanied by an Introduction which is intended to throw light on the somewhat complex and to many readers unfamiliar matters connected with Japanese family law.

To Mr. R. Masujima, *Hogaku Hakushi* of the Japanese Bar, and Barrister of the Middle Temple, and Mr. G. Akiyama, *Hōgaku shi*, of the Japanese Bar, until recently President of the Yokohama *Chihō-Saibansho*, the translator's thanks are again due for the great assistance he has received from them in the translation of this final portion of the Code. He has also benefited by the criticisms of friends who have kindly read through the proof-sheets of the Introduction.

As in the previous volume, the Japanese text is added for the convenience of those who may wish to refer to it.

TOKIO

MAY 1899.

INTRODUCTION.



THE JAPANESE FAMILY SYSTEM.

Any one reading the Books of the new Civil Code which deal with Kindred and Succession will notice that in Japan it is the family, and not, as with us, the individual, which is the unit of society. A short sketch, therefore, of the family system in its essential features may not be out of place, in spite of the difficulty of treating in a small compass a subject so wide. In this sketch the system has necessarily been treated as one common to the whole country, but it may be well to point out that until quite recent times matters concerning family law have been governed by local custom, which has varied not only in each province, but often in districts of the same province.

In order to give a wider view of the subject, and at the same time to render it more interesting to the reader unacquainted with things Japanese, the writer has strayed beyond the strict limits of connection between the family system and the present Code.



In his able and exhaustive treatise on Japanese family law* Dr. Weipert has drawn attention to the importance of the *Family* in Japan. This importance is not derived from any idea of ancestry, though pride of birth is as common as with us, but from another set of ideas,—from a difference in the point of view from which society is regarded. It is due simply to the fact that the family is the social unit, and it is theoretically as great in plebeian as in patrician circles, for in this matter neither law, nor custom is any respecter of persons. With us it is the individual, in Japan it is the family, round which everything centres.

Wide, however, as is the extension of the family idea, so to speak, in Japan, it must not be supposed that the strictness with which the usages connected with the family system are observed is the same throughout all classes of society. Speaking broadly, it is not incorrect to say that the family idea finds its most complete expression in the ranks of the nobility, and that as it extends downwards through the various strata of society its importance gradually decreases, until when the lowest level is reached the family tie is barely traceable, and the individual, and not the family, appears as the unit of society.†

* Mittheilungen der Deutschen Gesellschaft für Natur und Völkerkunde Ostasiens in Tokio (1890).

† In practice but not in theory. In theory of course the operation of the family system is the same throughout all classes of society, and to this the new Code lends its weight, and gives the

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But this statement needs some qualification. The natural conservatism of all rural populations has shewn itself in Japan in a tendency towards a stricter adherence to the usages connected with the family system in the country than in towns, and this tendency was increased by the curious gradation of classes, which placed the farmer next to the military man and above both the artisan and merchant. On the other hand the influence of the family was less amongst the feudal nobility, and the military class on which it rested, than amongst other sections of the people. Here the family idea came into conflict with the more powerful feudal feeling, the tie between lord and retainer, with the result that parental authority, the power of the head of the family, and the importance of family councils were perceptibly weakened.

force of law. It will be interesting to note, in the working of the Code, the result of the translation of this theory into practice, and to observe the operation side by side of two opposite movements, namely, the greater stringency introduced by the law into the observance of family usages in circles where before they were practically non-existent, and the gradual and inevitable loosening of the family tie which will be the result of the pressure of western civilization, and to some extent also of the progressive spirit in which the Code itself is conceived.

Owing to the obscurity in which the subject is involved, and its complicated nature, the question of the origin of the Japanese family system presents some difficulty. In the absence, however, of good grounds for supposing ancestor worship to have been a separate and independent factor in its development,* it is probably correct to regard it as the product mainly of two agencies, Chinese civilization and feudalism. Whether this civilization was borrowed by Japan from the sister country in a more or less matured form, or whether she received it in the shape simply of primitive ideas as part of her birthright from a parent stock in Asia common to the two countries, is a subject upon which opinions differ. In any case it may be safely assumed that it was the earlier of the two agencies; and bearing in mind the wholesale introduction, at a later date, of the language, literature, and ethics of China, by which this civilization was more widely diffused throughout Japan, the conclusion to which one is naturally brought is that while the groundwork of the system is Chinese, it is overlaid and interwoven with much that is of feudal origin.

* Perhaps I have put this too strongly. The exact position to be assigned to ancestor worship in the evolution of the Japanese family system is a point which is much contested. Professor N. Hōzumi, who has kindly looked over the proof-sheets of this Introduction, and to whom I am indebted for several valuable suggestions, holds that ancestor worship was the foundation of the Japanese family system, and that Chinese civilization and feudalism are to be regarded simply as factors in its development; and his view is shared by other Scholars.

And this conclusion is strengthened if we look at the family system as it existed in quite recent times, prior to the changes made by later legislation. The features which constitute its basis, such, for instance, as parental authority, the position of women both within and without the household, and the relations between the sexes, are clearly the outcome of Chinese ideas, which make their presence felt throughout the whole range of family life. On the other hand the influence of feudalism, which has so profoundly modified the national character, is often so indistinct that one is tempted to deny it its proper meed of recognition, and to hold judgment in suspense for lack of clearer evidence. It is possible nevertheless to trace its working, intermingled perhaps with what dates back to primitive and prehistoric times, in the artificial character of the family in the legal sense of the word, in the authority vested in the head of a family as distinguished from that of a parent, in the law of succession, in the customs of adoption and abdication, in the elaborate provisions framed with the view of furthering the interests of the family rather than those of the individual, and in the consolidation of the wider group of kindred in which the individuality of each citizen is merged.

Before going further it may be well to explain what is meant by the word family in Japanese law.

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With us the word family is used in several meanings. It may mean the group of persons forming a household, without reference to kinship, or simply a person's offspring, or the group centred round the parents which forms one household, or the same group apart from the connecting link of the household, as when the members of a family originally forming one household are scattered; again it may be used either in the vague sense of ancestry, or to denote some particular chain of individuals connected with each other by direct descent; or it may mean a group of persons descended from a common ancestor, as represented in the tabular view furnished by a family tree.

Though the word family in Japan has not the same variety of meanings as with us, it includes two of our conceptions, that of a group of persons descended from a common ancestor, and that of a household. But in its legal sense the word denotes something to which we have nothing analogous. It means a group of persons bearing the same surname, and subject to the authority of one who is the head of the family, and who may or may not be the common parent, or ancestor;—and it is in this sense that the term “member of a family” is used in the Code. This family, which may be comprised in one household, or may embrace several, may be the main

branch of the parent stock, or only a cadet branch. In either case it constitutes what is known to the law as a family, succession to the headship of it is regulated by strict provisions, and the person who is its head is invested with certain well-defined authority. Kinship is not essential to membership in this family group, for the law provides that a relative of an adopted person may under certain circumstances become a member of the family which the latter has entered.

There is, however, another and larger family group which consists of all those who stand towards each other in the position of kindred as defined in Article 725 of the Code. In this latter group, which finds its embodiment, so to speak, in family councils, lies to a great extent the key to the real position of the individual in Japan.

The Japanese family system is thus a combination of relatives into two groups, and every Japanese, therefore, is to be regarded in two capacities: first as a member of the smaller family group—the legal family—and as such, unless he is head of the family himself, subject to the authority of its head; and secondly as a member of the wider group of kindred, with whom he is closely connected by rights and duties, and as such, whatever his position in the family may be, subject in certain matters to the control

of family councils.* But the position of a Japanese in his dual capacity as a member of both the smaller and larger family groups has little in it of the permanency and stability which are found in our family life, being affected not only, as with us, by marriage and divorce, but also liable to constant change by the separation from the family which occurs as the effect of adoption, and its dissolution, of succession to the headship of the main branch of a family, of the establishment of a fresh branch of a family, and of the resuscitation of a family which has died out, by abdication, and by the conditional liberty given to a person to change his family allegiance, so to speak, and transfer himself from the authority of one head of a family to that of another.

A wide extension is also given to both family groups by the inclusion, subject, where necessary, to the consent of the head of the family, in the father's

* It is obvious that the position of an individual with regard to these two family groups varies according as he is head of a family, or not. In the case of the head of a family these groups may be represented by concentric circles, the centre of each being the head of the family in question. In the case of other persons the circles, though contained one within the other, are not concentric, the distance separating their centres varying with the degree of kinship between the individual in question and the head of the family; and in cases where there is no tie of kinship between a "member of a family" and the family to which he belongs (which sounds to us of course paradoxical) the circles illustrating the two groups to which he belongs will be quite separate. It follows also that an adopted person may be included in two different circles of kindred, while he can only belong to one family.

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family,* as a legal member of it, of an illegitimate child which he has formally recognized, but which has not been legitimized by the marriage of the parents, and the similar inclusion in the mother's family of an illegitimate child which she, but not the father, has recognized.* And the artificial character of both groups is heightened by the frequency of adoption, which, though very far from being an indissoluble tie, must so long as it exists be regarded as a fiction—"so closely simulating the reality of kinship that neither law nor opinion makes the slightest difference between a real and an adoptive connection."†

In several of its features, such as the prominence given to parental authority, the inferior position assigned to women, the custom of adoption, and the religious rites of the family, Japanese family law as it existed a few decades ago showed a close resemblance to Roman law. Though much of this resemblance has since disappeared, it may be convenient in dealing with the main features of the family system to examine first

* These cases are rare.

† Maine's "Ancient Law," page 133.

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those which have their counterparts in Roman law, and afterwards those which are more or less peculiar to Japan, noting briefly in each case, where it is possible to do so, the changes made by recent legislation.

**Parental
Authority.**

It is doubtful if at any time parental authority in Japan ever approached to the rigour of the Roman *patria potestas* as it existed in its harshest form, for, in spite of the power formerly possessed in theory by a parent over a child, which found expression in the gradation, in the now obsolete codes, of offences according as they were committed by parents against children, or by the latter against the former, it should be borne in mind that the doctrine of filial piety never excluded the duties of parents to children, and that the development of the whole question of the relations between parent and child has in Japan, as in China, proceeded on ethical rather than on legal lines. In Japan, moreover, parental authority has always been subject to two weakening influences, the power of family councils, and the custom of abdication. It now includes both paternal and maternal authority,*—a thing unknown to Roman law,—and it is

* The father and mother do not, however, exercise parental authority jointly. It is only exercised by the mother if the father is dead, has left the family, cannot be ascertained, or is unable to exercise it.

exercised over children who are "members of the family" of the parent in question during their minority, and even afterwards so long as they do not earn an independent living. It includes the right of correction, and of applying to a court of law for an order of confinement in a house of correction, the right, in the case of minors, of determining the child's place of residence, and business or profession, of managing the child's property, and of performing various legal acts on the child's behalf, subject in certain cases to the approval of a family council. At the same time the law provides safeguards against its abuse. As showing the influence of the doctrine of filial piety even on so modern a work as the present Code, it may be well to draw attention to the fact that Japanese law speaks of a person as a child, irrespective of his or her age, so long as either of the parents is alive, and that a parent's right to maintenance by a son, or daughter, has precedence over the rights in that respect of the latter's children and consort.

The legal position of women in Japan before the commencement of modern legislative reform is well illustrated by the fact that offences came under different categories according to their commission by the wife against the husband, or by the husband against the wife,

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of women.**

and by the curious anomaly that while the husband stood in the first degree of relationship to his wife, the latter stood to him only in the second. The disabilities under which a woman formerly laboured shut her out from the exercise of almost all rights. She could not inherit or own property in her own name, she could not become the head of a family, she could not adopt, and she could not be the guardian of her child. The importance which under these circumstances attached to agnatic relationship is not surprising. Writing on this subject in his "Ancient law" Maine says:—"A table of Cognates is, of course, formed by taking each lineal ancestor in turn and including all his descendants of both sexes in the tabular view; if then, in tracing the various branches of such a genealogical table or tree, we stop whenever we come to the name of a female and pursue that particular branch or ramification no farther, all who remain after the descendants of women have been excluded are Agnates and their connection together is Agnatic Relationship."*

These words accurately describe the distinction which existed under the earlier laws in Japan. The maxim "*mulier est finis familiæ*" was as true in Japan as in

* The terms agnates and cognates are now used by us in the sense of relations on the father's and mother's side respectively. In the meaning now attached to the former term a trace of the old distinction survives.

Rome, though its observance may have been less strict owing to the greater frequency of adoption; and the terms used to describe the two different kinds of relationship *nai-seki*, relatives within (the family) and *gwai-seki*, relatives outside (the family) bring out even more clearly than the Roman law terms the fact that the family as then conceived was the basis of the distinction.

All this has been greatly changed, and with the change the distinction between agnatic and cognatic relationship has practically disappeared. In no respect has modern progress in Japan made greater strides than in the improvement of the position of women. Though she still labours under certain disabilities,* a woman can now become the head of a family, and exercise authority as such; she can inherit and own property and manage it herself; she can exercise parental authority; if single, or a widow, she can adopt; she is one of the parties to adoption effected by her husband, and her consent in addition to that of her husband is necessary to the adoption of her child by another person;† she can act as guardian, or curator, and she has a voice in family councils.

* For instance, in the matter of succession to the headship of a family, females rank with but after males, and the place of a widow in this kind of succession depends upon whether she was originally a member of the family in question or not.

† Her husband also cannot adopt her child by a previous husband without her consent.

Adoption.

The desire to preserve the continuity of the family has given rise to the custom of adoption wherever it is found; and in countries like Japan, where ancestor worship has survived in the practice of family rites, the anxiety to make due provision for the performance of these rites has acted as an additional incentive. But in no other country probably has adoption been conducted on so large a scale, or played so important a part in the social life of the community which has practised it. It is not limited, as with us, to the adoption of minors, for the adoption of adults* is as common as that of children; nor is it confined to the adoption at any one time of a single individual, for the adoption of a married couple, though somewhat rare is a recognized custom; nor does any character of finality attach to the act from the point of view either of the adoptive parent or of the person adopted, for a person may adopt or be adopted more than once, and adoption may be dissolved or annulled. Nor indeed in other respects, beyond the incapacity of women to adopt does

* The adoption of very young children for the purpose of succession to the headship of a family was discouraged under the rule of the Tokugawa Shoguns and the misrepresentation of age, and even the substitution of one person for another were resorted to for the purpose of evading the difficulties raised by the Authorities in this respect. Amongst the agricultural classes there has always been a tendency towards the adoption of adults rather than children in order to secure the advantage of additional adult labour, and this is the explanation of the curious custom till quite recently prevailing in certain districts of Japan which had the effect of establishing a kind of primogeniture in favour of females.

any restriction whatsoever, appear to have been imposed until recent legislation, except that the interests of the family, as apart from the individual, were guarded by the exclusion from adoption of the heir to the headship of a family, and the preference given in adoption to relatives over strangers. This laxity led to abuses of various kinds, and produced such anomalies as the adoption of persons by their juniors in age, and of adults by children; and the adoption of brothers, and of relatives in almost every degree of kinship, created that bewildering confusion of relationship which is the despair of the student of Japanese history.

Adoption in Japan was formerly, as in Roman law, the act of one individual, and not, as it now is in the case of married persons, of two. Women are no longer debarred from exercising the right of adoption. It is usual to adopt persons of the male sex rather than females. The adoption of females who are not minors does not occur very often and the adoption of female children when it takes place is usually followed by the adoption of a person of the male sex, who becomes her husband when she reaches a marriageable age. The adoption of persons of the male sex is effected in two ways. There is the simple adoption, in the absence of male heirs, of a male, who may, or may not, subsequently marry a member of the adoptive family. And there is what is perhaps the most common form of all,

namely, the adoption of a person of the male sex with a view to his marriage with a daughter of the adoptive parent. The marriage and adoption may be simultaneous, or the marriage may, if the adopted person is very young, take place after the lapse of some years, but only in the former case is the term *muko-yōshi* now strictly applicable to the person thus adopted. The adoption of a married couple, which is not very common, occurs usually in cases where the adoptive parents are advanced in years.

There is no ceremony in adoption. It may be effected either by registration, during the lifetime of the person adopting, or by will. In the former case notice, which may be either verbal or written, is given to a registrar by the parties to the adoption, and by two witnesses who are of age. In the latter case similar notice must be given without delay after the testator's death by the person to be adopted, or, in the case of persons under fifteen years of age, by the person or persons who act on behalf of the person adopted, and two witnesses who are of age. If the adoption is effected by registration, it takes effect from the date on which notice is given to the registrar; if by will, it takes effect retrospectively from the date of the testator's death. When the registrar has satisfied himself that the adoption is in accordance with the provisions of the law, the name of the adopted person is

entered in the register of the adoptive family, and expunged from the register in which it was previously inscribed.

A person in order to adopt must be of age. Neither an ascendant nor one who is senior in age can be adopted. A guardian can only adopt a ward by will, and the heir to the headship of a family cannot be adopted except in special cases, and can only adopt a person of the male sex when it is done for the purpose of making him a son-in-law. Except in cases where the person adopting is unmarried, or where one of two married persons adopts the child of the other, adoption is the joint act of the adoptive parents.

No one who is not the head of a family, whatever his or her age may be, can adopt, or be adopted, without the consent of the head of the family. A person whose parents are alive cannot adopt without their consent. A person of the age of fifteen, or older, whose parents are alive, cannot be adopted without their consent. For the adoption of a person under the age of fifteen the consent of the parents on his or on her behalf is necessary, and in certain cases, the approval of a family council. If a person who has entered another family by adoption, or marriage, wishes to be re-adopted and enter another family, the consent of the parents in the original family must be obtained.

An adopted person takes the surname of the adoptive parent or parents.

Like marriage, adoption depends for its validity on registration and the intention of the parties: failing either the adoption is invalid.

The tie of adoption is severable by annulment, and by dissolution.

For annulment of adoption the intervention of a court of law is necessary. Adoptions which contravene the provisions of Articles 837-42, and 844-6, inclusive, may be annulled by a court of law on the application of either of the parties, the adoptive parent, or parents, or his, her, or their legal representatives, the adopted person, or one of his true relatives, a consort who has not consented to it, the head of the family, or a relative, according to the requirements of the law in a particular case. In adoption, as in marriage, the contravention of provisions of the law other than those relating to registration, and the intention of the parties, does not necessarily invalidate the adoption, which continues to have effect until an order of a court for its annulment has been issued.

Dissolution of adoption takes place in two ways: by arrangement between the parties to the adoption,—or, in cases where the adopted person is under the age of fifteen, between the adoptive parent, or parents, and the person or persons whose consent is necessary on

behalf of the adopted person,—and by judicial decree. But after the death of the adoptive parents an adopted person may dissolve the adoption with the consent of the head of the family.

Dissolution of adoption by arrangement is effected in the same way as adoption. When the registrar who receives the notice has satisfied himself that the dissolution is in accordance with the provisions of the law, the name of the person whose adoption has been dissolved is expunged from the register of the adoptive family, and is re-inscribed in the register of the family to which he or she originally belonged, unless the person in question has been debarred* from returning thereto.

For the dissolution of adoption by arrangement persons under the age of twenty-five must obtain the consent of the person or persons whose consent was necessary for their adoption.

An action for dissolution of adoption may be brought by either of the parties to the adoption, or, so long as the adopted person is under the age of fifteen, by the person or persons whose consent to the adoption on behalf of the person adopted was necessary. The grounds for such actions, several of which are also

* See remarks on divorce.

grounds for divorce, include cruelty, desertion, disappearance, cruelty of the adopted person to his, or her, own lineal ascendant, cruelty received by the adopted person from a lineal ascendant of the adoptive parent, and divorce or annulment of marriage in cases where the adopted person is connected with the adoptive family both by adoption and marriage. An action for dissolution of adoption cannot be brought by an adopted person who has become head of the adoptive family, nor can it be brought if the conduct which constituted the ground for dissolution has been condoned, or if it is barred by prescription, or under other circumstances mentioned in the Code.

In the cases of dissolution of adoption by arrangement, or judicial decree, of which the Code treats it is always the adopted person who leaves the adoptive family. But it not infrequently happens as a result of divorce, or for family reasons connected with succession to the headship of a family, that one or both of the adoptive parents, and not the adopted person, leave the adoptive family. Under these circumstances, though the tie of adoption is dissolved, the adopted person remains in the adoptive family.

In regard to succession, the exercise of parental rights, and all other matters, with the exception of marriage,*

* Namely the degrees of consanguinity within which marriage is prohibited.

the law makes no distinction between real and adopted children, so long as the latter remain in the adoptive family, it being expressly provided that between an adopted person and the adoptive parents and the latter's blood relatives the same relationship as that between blood relatives is established from the date of the adoption (Article 727), and that an adopted person acquires from the date of the adoption the status of a legitimate child of the adoptive parent or parents (Article 860).

**Family
Rites.**

Japanese law at present concerns itself with family rites in so far only as the inheritance of the utensils and furniture of worship is concerned. Slight, however, as the relation is, its existence shows that "the point of development at which law breaks away from religion" has not yet been reached.

The family rites now practised in Japan are so blended with Shintō and Buddhist ceremonial as to have lost their original and distinctive character. They combine the worship paid to deceased ancestors and other relatives with that paid to various Shintō deities.*

* It may seem incorrect to include under the head of *family rites* the worship paid to Shintō deities which, though household worship, has no apparent relation to the family, and it may be thought that it would have been better to have made a distinction between *household* and *family rites*. In view, however, of the fact that Shintōism

Before the introduction of Buddhism in the sixth century each household had its *kamidana*, or Shintō altar, which is a plain wooden shelf. On this the cenotaphs of deceased members of the family were placed. The adoption of Buddhism led to the introduction of a *butsudān*, or Buddhist altar, which is a miniature shrine of wood, and to this the ancestral cenotaphs were transferred. But the Shintō altar remained, and served as the depository of charms from the chief Shintō Shrine, the *Daijingu* of Isé, and of charms from the Shrines dedicated to the various tutelary deities of members of the family, and in spite of the revival of Shintōism which accompanied the Restoration of 1868 the two altars with their respective uses have remained unchanged.

The rites conducted vary with the professed religion of the family, and to some extent also according to the inclinations of the members of each household, their performance in the strictest detail being confined to the upper classes and wealthy farmers. Amongst

in its origin was a form of ancestor worship, it has seemed to me on the whole better to adopt the treatment I have chosen.

Again the term *household rites*, as being in this context a wider term, is for some reasons preferable to the term *family rites*; but its use would have obscured the relation of the family to these rites, which is the point of essential importance.

It may also appear to some scholars to be open to question whether a distinction can fairly be made between the worship paid to deceased ancestors and that paid to Shintō deities, and whether it is not more correct to regard the former as being part of the latter.

the Buddhists too the rites practised by adherents of the *Shin*, or *Monto*, sect differ from those conducted by others.

The rites in the worship paid to Shintō deities consist of reverential obeisances made before the Shintō altar every morning, the lighting of a small lamp on the altar every evening, and the presentation of offerings of rice and saké on the 1st, 15th, and 28th of each month; also from time to time branches of the *Sakaki** tree are laid on the altar.

The ancestral rites performed before the Buddhist altar are as follows:—

In Shintō households, on the death of a member of the family, the cenotaph, which is a small wooden tablet bearing the posthumous name of the deceased and the date of death, is enclosed in a box which is placed before the altar on a table of white wood.† This tablet is called the *Tamashiro* or “spirit substitute.” Twice a year, in spring and autumn, on the day of the month on which the deceased died offerings of food of various kinds, including fish and meat, are laid on the altar. On the 1st, 5th, 10th, 20th, 30th, 40th, 50th, and 100th anniversaries of the

* *Cleyera japonica*.

† When the cenotaphs become too numerous, one or two tablets are made to serve for all.

death a religious service is held in the house. To this relatives and friends are invited. On these occasions a feast is provided, and it is usual, but not necessary, for a Shintō priest to be in attendance.

In Buddhist households on the death of a member of the family the cenotaph, which is termed the *I-hai*, or "tablet of rank," is placed directly on the altar without the accessories of the box and table used in Shintō households. The altar is never without flowers, and offerings of tea and rice are made and incense sticks lighted every morning. On the 1st, 2nd, 7th, 13th, 23rd, 33rd, 60th and 100dth anniversaries of the death a religious service is held in the family temple or in the house. If in the latter, a Buddhist priest officiates, and relatives and friends are invited. As in the case of Shintō households, a feast is also provided on these occasions. Again on the 15th* July in each year, when the *Bon* Festival, or "Festival in memory of the dead," is held, offerings of vermicelli and vegetables of various kinds are made. During this festival it is customary for the members of the household to repair in a body to the ancestral tombs for the purpose of placing flowers and branches of the *Shikimi*† tree upon them, and of praying

* Strictly speaking from the evening of the 13th to midnight on the 16th.

† *Illicium religiosum*.

at the adjacent temple ; it is also customary in many households to call in a priest to hold a special service in the house.

Adherents of the Shin sect of Buddhists do not celebrate the *Bon* Festival, and the offerings of food include fish and meat and are supposed to be made not to the spirits of the dead but to *Amida Niōrai* the patron saint and founder of the sect.

The other features of the family system which remain to be noticed are, with one exception, peculiar to Japan. They are the position occupied by the head of a family, succession,* abdication, family councils, marriage, and registration.

In the Roman family system the authority of the head of a family as a thing apart from parental authority

**Position
of Head of
a Family.**

* Strictly speaking this should read *succession to the headship of a family*, for it is this of course and not *succession* which is peculiar to Japan. The inclusion in this Introduction of succession to property and wills is, I am aware, inconsistent with the statement made in the passage to which this note is attached ; but in view of the advantage in point of clearness to be gained by dealing with the whole subject, and not merely one branch of it, I have decided to adopt the wider treatment.

was unknown. There was only the *patria potestas*, which began and ended with kinship either real or fictitious. In Japan parental authority and the authority exercised by the head of a family are quite distinct, but the two may be vested in the same individual, who may be a woman, and when vested in different individuals they represent a sort of *condominium*, as, for instance, in cases where the consent not only of the parent but of the head of the family is required.

The head of a family exercises authority over all those whom the law recognizes as members of the family.* It is by no means necessary that these should form part of his or her household for, as has already been explained, the group represented by the word family in this context may embrace several households; nor need they be relatives, though usually some tie of kinship exists. This authority includes the right of consent to the marriage and divorce, the adoption and the dissolution of adoption, of each member of the family, the right of determining his or her place of residence, and the right of expelling such person from the family, or of forbidding his or her return to it. He has also the right of succession to property in default of other heirs. But the headship of a family carries

* And in cases of re-adoption this authority extends to a person who is no longer a member of the family.

with it also duties and responsibilities, the duty of supporting indigent members of the family, the duty under certain circumstances of guardianship, and responsibility for the debts of all.

Japanese law recognizes two kinds of succession, succession to the headship of a family, and succession to property.

Succession.

Between the Roman *emptor familiae* and the heir to the headship of a family in Japan there is nothing in common beyond the prominence given to the family in each case. The *emptor familiae* inherited everything. It is otherwise with the heir to the headship of a family. Dr. Weipert points out in his treatise that the question as to what property goes with succession to the headship of a family has been decided in various ways in the course of the development of Japanese jurisprudence, and he explains in detail the changes which have occurred. As the law now stands, the heir to the headship of a family may inherit all the property, but he is only entitled as of right to what is known as the "heir's portion." This varies in accordance with the relationship of the heir to the person succeeded to. But the question of the devolution of property in connection with succession to the headship of a family is after all a matter of only secondary importance. The primary consideration is the continuity of the family. The new

head of the family succeeds to all the rights and duties, except when these are of a personal and exclusive nature, of the predecessor, whose legal personality is regarded as passing from the moment of his death, abdication, or loss of nationality, to the successor. Thus the continuity of the family is maintained, and as special value has always attached to succession in the direct line, in default of natural heirs the fiction of adoption steps in to preserve the theory of direct lineal succession.

Succession to the headship of a family is limited, save in exceptional cases, to persons who are "members of the family." It occurs in the case of both sexes by death, abdication, and loss of nationality, also, in the case of males only, by the annulment of marriage or adoption, and also, in the case of females only, by the marriage of a woman with a husband who enters her family, and by the divorce of such husband.

The order of succession is as follows:—

1. Lineal descendants who are distinguished from other heirs in the Code by the title of "legal heirs." Amongst them the nearest relative comes first, males are preferred to females, legitimate children, if males, rank before *shoshi*,* and both the last-named, even though

* See Note on page 2 of Code.

females, come before illegitimate children.* In the event of the death of a lineal descendant, who would, had he or she lived, have become heir, occurring before that of the person succeeded to, the heirship devolves on his, or her, lineal descendant.

2. If there is no lineal descendant, the person succeeded to is at liberty to appoint an heir.

3. If there is neither a legal nor an appointed heir, the father or mother who is in the family, or the family council, as the case may be, chooses an heir from among persons who are members of the family in accordance with the following order, which, however, may in certain cases be departed from.

When the person succeeded to is a male :—

- a). The wife, if she was originally a member of the family.
- b). Brothers.
- c). Sisters.
- d). The wife, if she was not originally a member of the family.
- e). Lineal descendants of a brother or sister.

When the person succeeded to is a female :—

- a). Brothers.
- b). Sisters.

* This can only occur in cases where the ancestor is a woman.

c). The husband.

d). Lineal descendants of a brother or sister.

4. If no heir is appointed by the father, mother, or family council, in accordance with the above-mentioned order, the ascendant who is the next of kin succeeds.

5. Failing an ascendant the family council chooses an heir from among other relatives, who may be heads of cadet branches of the family, or, in certain cases, from outside the circle of relatives.

The heir to the headship of a family inherits as part of the special rights of succession the genealogical records of the family, the utensils and furniture used in the performance of family rites, and the family tombs.

Heirs may be disinherited during the lifetime of the person succeeded to, or by will. The Code enumerates several grounds on which the disinheritance of a "legal heir" can take place.

Unlike succession to the headship of a family, succession to property is not limited to persons who are "members of the family," but it only occurs, to use the language of the Code, "by the death of a member of the family." As in the other kind of succession, an heir is only entitled as of right to what is known as "the heir's portion", which varies according to the relationship of the heir to the person succeeded to.

The order of succession is as follows :—

1. Lineal descendants.

Amongst these the nearest $\frac{7}{8}$ relative is preferred. Persons in the same degree of relationship rank together. As in succession to the headship of a family, in the event of an heir predeceasing the person succeeded to, the heirship devolves on his or her lineal descendant.

2. After lineal descendants come, in the order named, the consort, lineal ascendants, and the head of the family.

Heirs who rank together share equally in the succession. But the shares of succession of a *Shoshi*,* and an illegitimate child, are fixed at half the share of a legitimate child.

The will of modern law was in former times in Japan simply a kind of solemn instruction left by a deceased person for the guidance of the heir, or other relatives. The place of wills was occupied by adoption, as in the earlier Roman law, and to some extent this is still the case.

Wills.

Following the classification of the French Code wills are divided into three kinds.

1. Holographic wills.
2. Wills drawn up by a notary.

* See note on page 2 of Code.

3. Wills by secret deed (the will *mystique* of French law).

A testator may dispose of the whole or any part of his property by will, provided the provisions relating to "the heir's portion" are not contravened.

Abdication.

What for want of a better word is generally known to foreigners by the term abdication is the retirement of a person from his position as head of a family. As women are permitted by law to become heads of families, it follows that abdication is no prerogative of the male sex.

Japanese scholars* who have investigated the subject agree in tracing the origin of the present custom to the abdication of Japanese sovereigns, instances of which occur at an early period of Japanese history. These earlier abdications were independent of religious influences, but with the advent of Buddhism abdication entered upon a new phase. In imitation, it

* The subject of abdication has been very fully dealt with by Professor Shigeno in a lecture entitled "The evils of succession through abdication to the headship of a family, and of adoption" delivered on the 10th April, 1886, and published in the "Gakushi Kwaiin Zasshi" (Magazine of the Society of scholars) and reproduced in August 1893 in the Historical Magazine. A resumé by Mr. Walter Dening of this essay appeared in Vol. XV. Part I. of the Transactions of the Asiatic Society of Japan.

Professor Hōzumi has also treated the same subject at great length in his book entitled "Treatise on Abdication" (*In-kio-ron*). In this he does not confine himself to abdication as known in Japan, but discusses the subject in its widest aspects.

would seem, of the retirement for the purpose of religious contemplation of the Head Priests of Buddhist monasteries, abdicating sovereigns shaved their heads and entered the priesthood, and when subsequently the custom came to be employed for political purposes the cloak of religion was retained. From the throne the custom spread to Regents and high officers of state, and so universal had its observance amongst officials of the higher ranks become in the 12th Century that, as Professor Shigeno states, it was almost the rule for such persons to retire from the world at the age of 40, or 50, and nominally enter the priesthood, both the act and the person performing it being termed *niū dō*. In the course of time the custom of abdication ceased to be confined to officials, and extended to the feudal nobility and the military class generally, whence it spread through the nation, and at this stage of its transition its connection with the phase it finally assumed becomes clear. But with its extension beyond the circle of official dignitaries, and its consequent severance from tradition and religious associations, whether real or nominal, abdication changed its name. It was no longer termed *niū-dō* but *in-kio*, the old word being retained only in its strict religious meaning; and *in-kio* is the term in use to-day.

In spite of the religious origin of abdication, its connection with religion has long since vanished, and

it may be said without fear of contradiction that the Japanese of to-day when he or she abdicates is in no way actuated by the feeling which impelled European monarchs in past times to end their days in the seclusion of the cloister, and which finds expression to-day in the Irish phrase "to make one's soul." Apart from the influence of traditional convention, which counts for something and also explains the great hold on the nation which the custom has acquired, the motive seems to be somewhat akin to that which leads people in some Western countries to retire from active life at an age when bodily infirmity cannot be adduced as the reason. But with this great difference, that in the one case, that of Western countries, it is the business, or profession,—the active work of life, which is relinquished, the position of the individual *vis-a-vis* the family being unaffected, in the other case it is the position of head of the family which is relinquished, with the result of the complete effacement of the individual so far as the family is concerned. Moreover, although abdication usually implies the abandonment of the business, or profession, of the person who abdicates, this does not necessarily follow, abdication being in no way incompatible with the continuation of the active pursuits in which the person in question is engaged. And if an excuse be needed in either case, there would seem to be more for the Japanese head of a family, who, in addition

to the duties and responsibilities incumbent upon his position, has to bear the brunt of the tedious ceremonies and observances which characterize family life in Japan, and are a severe tax upon time and energies, while at the same time he is fettered by the restrictions upon individual freedom of action imposed by the family system. That in many cases the reason for abdication lies in the wish to escape from the tyrannical calls of family life, rather than in the mere desire for idleness and ease, is shown by the fact that just as in past times the abdication of an Emperor, a regent, or a state dignitary, was often the signal for renewed activity on his part so in modern Japanese life the period of a person's greatest activity not infrequently dates from the time of his withdrawal from the headship of his family.

As in the case of adoption, abdication is now more strictly regulated by law than formerly. Women are permitted to abdicate irrespective of age, subject to the consent of their husbands, but a man is not allowed to abdicate unless he has attained the age of sixty, or unless the heir who succeeds him in the headship of the family has accepted the succession unconditionally; or unless in certain cases the consent of a court of law has been obtained.

**Family
Councils.**

In including family councils amongst those features of the family system which are peculiar to Japan the fact that something of a similar type exists in other countries has not been overlooked. It needs, however, but a slight acquaintance with the subject to perceive that family councils in Japan are very different from what is known by the same name elsewhere. With us a family council means a more or less informal meeting of relatives for the discussion of some family matter,—a meeting which has no legal status, and the decisions of which, unless consecrated by legal procedure of some sort, have no binding force; and even in France, where a wider extension is given to the family council, and it is recognized by law, the position it occupies both legally and socially is a very subordinate one. In Japan, on the other hand, the importance of family councils can scarcely be overrated. They usurp many of the functions which we are accustomed to associate with courts of law, and, uniting in themselves rights and duties relegated elsewhere to distinct and separate spheres of authority, watch over the interests both of the family and the individual. It is true that in all cases there is an ultimate appeal from the decision of a family council to a court of law, but, apart from the natural reluctance of most people to take this step, the chances of success are too remote to favour its frequent adoption.

As has already been explained, family councils

represent the larger of the two groups into which Japanese society may be regarded as divided. In former times the action of a family council was independent of the judiciary. Under the present Code the selection of the members rests with a court of law, except in certain cases where a testator may appoint them in his will.

Family councils are of two kinds, those established for the determination of some particular question, and those which are established for the purpose of taking charge of the affairs of persons without legal capacity. The former are dissolved when the question under discussion has been settled; the latter continue until the legal incapacity ceases. In both cases the council is originally summoned through a court of law, but in the case of the latter the intervention of the court is not required for subsequent meetings.

A family council consists of three or more members. In addition to relatives these members may, in cases where the council is convened for the purpose of determining some particular question, include the person whose affairs are primarily under discussion, or some person who is connected with him but not sufficiently closely to constitute relationship as defined in Article 725. Guardians, superintendents of guardianship, and curators, and minors and other persons who are ineligible for guardianship, cannot serve on it. Decision is by majority, and no member can vote in a matter in

which his own interests are concerned.

The functions of family councils include the granting of consent under certain circumstances to marriage and adoption; the granting of consent to acts performed by a mother on behalf of a child who is a minor, and over whom she exercises parental rights, or the approval of consent granted by her for the performance of such acts by the child; the protection of the interests of a child, who is a minor, in the case of acts in regard to which the interests of the parents and child conflict; the supervision of the affairs of persons without legal capacity, including minors; the choice in certain cases of an heir to the headship of a family; and the appointment and control of guardians, and superintendents of guardianship.

The power vested in family councils in no way diminishes the influence brought to bear upon an individual by the circle of relatives from whom they are chosen, but rather serves to increase it; nor does their existence as a species of family tribunal, so to speak, preclude the settlement of many family matters in an informal manner without recourse to the somewhat elaborate machinery provided by the law.

Marriage. Before the publication of the present Code the question of marriage was regulated by fragmentary

enactments, issued from time to time, which dealt with various points connected with marriage and divorce, but never with the subject as a whole.

Validity of marriage in Japan is quite independent of the marriage ceremony, which is a purely social function, having no connection whatsoever with law beyond the somewhat remote contingency of its being adducible as evidence of a marriage having taken place. Marriage is effected simply by registration.* This, and an intention on the part of the parties to marry, are all that is required to constitute a valid marriage.† Notice is given to a registrar by both parties and two witnesses who are of age, and this notice may be either verbal or written. When the registrar has satisfied himself that the marriage is in accordance with the provisions of the law, the name of the person entering the other's family is inscribed in the register of that family, and is expunged from the register of the family to which he or she previously belonged.

The marriageable age for men is seventeen‡ years; that for women fifteen.‡ Marriage cannot take place be-

* It actually *takes effect* when notice is given to a registrar (Article 775).

† Conversely, however, failure to give notice to a registrar, and absence of intention to marry are not the only grounds for invalidity. Marriages between relatives within the prohibited degrees of consanguinity are *ipso facto* invalid, and so is a remarriage contracted and a person already married and undivorced.

‡ This is the full age, not age according to Japanese reckoning.

tween lineal blood relatives, or relatives by marriage in the direct line, or between collateral relatives within three degrees of relationship, but this prohibition does not extend to marriages between adopted persons and their collateral relatives by adoption.

No one who is not the head of a family, whatever his or her age may be, can marry without the consent of the head of the family. Men under the age of thirty, and women under the age of twenty-five must obtain for their marriage the consent of the parents in the family, and for the marriage of minors in certain cases the consent of the guardian or of a family council is necessary. In cases where persons who have entered a family by marriage wish to remarry and enter another family, the consent both of the head of the family they have entered by marriage and of the head of the family to which they originally belonged must be obtained. A woman whose marriage has been dissolved, or annulled, cannot remarry until after the expiration of six months from the date of the dissolution or annulment of her previous marriage.

Japanese law recognizes two kinds of divorce, divorce by arrangement between the parties, and judicial divorce.

Divorce by arrangement is effected in the same way as marriage. When the registrar who receives the notice has satisfied himself that the divorce is in

conformity with the provisions of the law, the name of the person leaving the other's family is expunged from the register of that family, and is re-inscribed in the register of the family to which he or she originally belonged. If permission to return to the original family is withheld by the head of that family, the person in question establishes a new family, obtaining new registration as head of the family thus established. In cases where the divorced person leaving the family had, upon marrying, abolished his or her original family, or where such family has otherwise come to an end so that return to it is impossible, the family in question may be resuscitated.

For divorce by arrangement persons under twenty-five years of age must obtain the consent of the person, or persons, whose consent was necessary for their marriage.

Judicial divorce is granted on several grounds which are specified in the Code. These include cruelty of one of the parties to his or her lineal ascendants, cruelty received by one of the parties from the lineal ascendants of the other, and the dissolution or annulment of adoption in cases where the adopted person is connected with the adoptive family both by marriage and adoption.

Besides the dissolution of marriage in the two ways above-mentioned, marriages which contravene the

provisions of Articles 765-70, inclusive, may, subject to certain restrictions, be annulled by a court of law on the application of either of the parties, the head of a family, a relative, or a public prosecutor. It follows that the contravention of provisions of the Code other than those relating to registration and the intention of the parties does not necessarily invalidate a marriage. Such marriages are valid as marriages until an order of a court for their annulment has been issued.

**Regis-
tration.**

If proof were needed that society in Japan centres round the family, and not the individual, that proof would be supplied by the system of registration alone.

The system is in its origin Chinese, having, it is generally understood, been introduced from China about the middle of the 7th century, and, in spite of the modifications which it has since undergone, the ancient name *Ko-seki*, borrowed from the Chinese language, is still retained. Whatever the object of its introduction may have been, whether simply to obtain a census of the population, or, as is supposed by some, to facilitate the collection of revenue, it would seem according to the "*Taihōriō*"* that it was employed at one

* A collection of laws published in the year 701, and quoted by Dr. Weipert in his treatise on Japanese Family Law already referred to.

time for the purpose of determining the periodical redistribution of land leased by the state to cultivators. The system ceased long ago to have any connection with the tenure of land, and became what it is now, a system of registration by means of which the state exercises a minute control over the affairs of individuals through the family. Of the process by which this change was effected nothing appears to be known, but in the course of the long interval which elapsed the name *Ko-seki* fell into disuse, being replaced by the word *nimbetsu*, and though the older word was revived for official purposes twenty-seven years ago, when the law on the subject was revised and codified, the word *nimbetsu* is still the term in more general use. There is nothing in either name which suggests the fact that the family is the basis of the registration; for *Ko-seki* signifies literally "house registration", and *nimbetsu* "separation, or classification, of individuals." It is therefore natural to suppose that in its earlier form the system was one of simply household registration, and that the change in its character was the result of its gradual adaptation to the growth and development of the family system, of which it now forms so important a part. It is registration which determines the status, and the position in regard to the family, of each individual, and which gives validity to marriage and divorce, to adoption and its dissolution.

to abdication, and to succession.

The present law on the subject replaces the previous law of 1871. It was promulgated on the same day as the final two books of the Civil Code, namely on the 15th June of last year, and came into operation on the same day as the Civil Code, namely, on the 16th of the following month,* it being intended to serve as a complementary law to that Code. In accordance with that intention its provisions have been brought into careful harmony with those of the Civil Code, and at the same time its compilers have introduced changes which are aimed in the direction of giving to the registration system more of a personal and less of a family character than it has previously possessed.

The present law consequently differs from its predecessors in the fact that registration is divided into three kinds,† family registration (*ko-seki*), residential registration (*kirii-seki*), and status registration (*Mibun-tōki*). All three kinds of registration are however conducted at the same office, and by the same official,‡ who in cities divided

* But permission was given for the old books and forms to be used until the 31st. December 1893.

† The law itself only provides for family and status registration, but the provisions of the previous law relating to residential registration are retained.

‡ Before the Restoration the registration records of the military class were kept in the offices of the various Clans, and those of the *Kuge* by Court officials, while those of the rest of the nation were entrusted to the local mayors in town and country.

into districts (*ku*) is the district mayor, and in cities not divided into districts, and in towns and villages, is the mayor of the city, town, or village as the case may be, and who for the purpose in question is called the registrar, the office at which the registration is conducted being the municipal office of the locality in question. The supervision of registration matters is entrusted to one of the judges of a district court, and is governed by the rules relating to judicial administration. Each district court is also subject in regard to such matters to the higher authority of the corresponding local court (*chihō-saibansho*).

In each registration district there is a family registration book* (*ko-seki-bo*), in which are entered the names of all persons whose permanent registers (*honseki*) are established therein. The entries are arranged according to families, and according to the address of the house which the head of a family occupies *at the time of registration*. In other words a separate register is kept for each house in which the head of the household is also the head of a family, persons who are heads of households, but not heads of families, being borne on the registers of the heads of their respective families. The names entered in a family register at the time it is

**Family
Regis-
tration.**

* These are kept in duplicate, and are governed by the same detailed regulations *mutatis mutandis* as apply to status registration books (see Status Registration).

prepared under the address of a certain house are, therefore, not necessarily those of persons who are members of the particular household indicated, though it may be so in the case of a small family, all the members of which are comprised in a single household. Nor are they necessarily those of persons who were or are resident in the district. They are simply those of all persons who, irrespective of their place of residence, are members of the family of which the occupant of the house in question is the head *at the time when the family register is prepared*. The family therefore and not the household is the basis of registration; the house merely gives the locale to, or, in other words, furnishes the address for a permanent register (*honseki*), when it is first established. Each register stands in the name of the head of the family, and every person whose name is borne on it (including the head of the family) is regarded as having his permanent register in the place in question.

It was doubtless originally intended that there should be a more or less close correspondence between registration and residence, and undoubtedly before the Restoration the correspondence was closer than it now is, for though on the one hand greater facilities existed for disappearance, on the other hand registration was more localized, and the movements of the population were comparatively restricted. The abolition of the feudal system broke down the barriers which up to that time

had separated the various clans, and permitted for the first time free intercourse, and unrestricted migration from province to province. Except when a new family register is prepared, which happens when the head of a family chooses to transfer his permanent register to another place, or when a person establishes a new family, family registration and residence are now quite independent of one another. The head of a family who has established his permanent register (*honseki*) in a certain district may leave it at any moment and reside elsewhere for a term of years, or for the rest of his life, without his permanent register being affected; and his children, and other members of his family, and their descendants, may retain their permanent registers in the same place without having ever resided there. The fact, therefore, that a person has his permanent register in a certain district is no proof whatever of residence therein, for it may and usually does only shew that some former head of the family resided there at the time when the register was first prepared.

It follows that several family registers may be entered in a register book under the same address without any of the persons concerned having resided in the place of registration, and it may even happen that different heads of families may be registered successively as occupants of a certain house long after the house in question has

been demolished, and the land on which it stood has been appropriated for cultivation. Hence the expression that a person's "permanent register is in *hatake*."*

Whenever a person changes his permanent register the register on which he was previously borne is called his "*gen-seki*" or "original permanent register," and this is the register referred to in the term *fuku-seki*.†

The particulars which are entered in a family register are somewhat voluminous, and include the names of the present and previous heads of the family, and of each member of the family; the class (whether noble, *Shizoku*‡ or *Heimin*) of the present head of the family, and the place where his permanent register is established; the dates of birth of the head and each member of the family; a statement as to how the head and members of the family came to occupy their respective positions, unless the cause is birth; the names of the parents of the head and of each member of the family, and the connection which exists between each and the parents

* Cultivated land.

† Returning to one's register, and so returning to one's original family.

‡ *Shizoku* is equivalent to our word *gentleman* though the two words do not exactly correspond; the term *Hei-min* is untranslatable. It was introduced after the Restoration as a comprehensive term to indicate those classes of the people who were formerly divided into the three categories of farmers, artisans and merchants, and also those who formerly belonged to the *yeta*, or pariah caste.

of the other ; and a number of other details into which it is unnecessary to enter.

The order in which these particulars must be entered is as follows :—

1. Head of the family.
2. His or her lineal ascendants.
3. His or her consort.
4. His or her lineal descendants, and their consorts, if any.
5. His or her collateral relatives and their consorts, if any.
6. Persons not relatives.

In the case of lineal ascendants in different degrees of relationship those in the *furthest* degree, and in the case of lineal descendants in different degrees of relationship, those in the *nearest* degree, are entered first.

The gap caused by the want of correspondence between family registration and residence is filled by residential registration. Any person who resides in a district other than that in which his permanent register is established is required to give notice of such residence within ten days of its commencement to the registrar of the district, furnishing particulars regarding himself and his wife and family, if he has any, and they are living with him, his present place of abode, and the place where his permanent register is established, and other details. The registrar enters the facts in his residential register

**Residential
Registration.**

(*niū-kiriū-bo*, or register for entering notices of taking up residence), and reports the matter to the registrar of the place where the person in question has established his permanent register, who in his turn makes a note of the fact in the permanent register of such person. Similar notice is given by a person on leaving a place where he has resided, and the fact is duly recorded by the registrars concerned.

**Status
Registration.**

The matters which come under status registration are, in the order in which they appear in the law, Birth, Non-recognition of a legitimate* child, Recognition of an illegitimate child, Adoption, Dissolution of adoption, Marriage, Divorce, Guardianship, Abdication, Disappearance, Death, Succession to the headship of a family, Disinheritance of the presumptive heir to the headship of a family, Appointment of an heir to the headship of a family, Entrance into a family (*Niū-seki*), Expulsion from a family (*Ri-seki*), Prohibition to return to a family, Establishment of a fresh branch of a family, Resuscitation of a family which has died out, Acquisition and Loss of nationality, Change of name, or class, and Alteration of entries regarding status.

Status registration books are kept in duplicate and are of two kinds, books used for entries in regard to

* Namely a child which in the absence of legal steps taken by the mother's husband would be regarded as legitimate.

status made in the case of persons whose permanent registers are established in the district of the registrar receiving the notices, and books used for entries in regard to status made in the case of persons whose permanent registers are not in the district of the registrar to whom the notices in question are given. These books are divided into separate volumes corresponding with the various subjects of status registration. Fresh books are prepared every year, and before being used are sent to the supervising judicial officer, who affixes the seal of his office to every page, and certifies on the back of each volume the number of pages it contains. The originals of all status registration books are preserved in the registration office; the duplicates are preserved in the local court which has jurisdiction over the supervising district court. Books in present use are not allowed to leave a registration office, but perusal and the taking of extracts from them are permitted. Entries in regard to status are made upon notice verbal, or written, given either by, or on behalf of, the person upon whom the duty of giving notice is incumbent, or at the request of a court of law, or in accordance with special provisions of the law.

Subject to some few exceptions, notice in regard to matters coming under status registration is given to the registrar of the district in which the person giving the notice resides; the registrar makes the necessary entry in

his register-book, and gives notice of the fact to the registrar of the place in which the permanent register which the notice concerns is established.

The requirements of the law as to the person by whom notice must be given, and the particulars to be furnished, vary with each subject. Without going more fully into the voluminous details of each matter in regard to which notice has to be given, it may be interesting to take two instances which will serve to shew generally the character of the particulars which the law requires. And for this purpose it may be well to select Entrance into and Expulsion from a family.

In the case of entrance into a family, the notice to be given* must state the following particulars:—

1. The name, date of birth, business or profession, and place of permanent registration of the head of the family into which entrance is contemplated.

2. The relationship subsisting between the head of the family in question, or a member of it, and the person about to enter it.

3. If the person entering the family in question is abolishing his own family for this purpose, a statement of the fact.

4. If the person entering the family in question is

* This is given by the head of the family into which entrance is contemplated.

a member of another family, particulars regarding the head of that family, and the relationship or connection between the latter and the person in question.

In cases where the consent of other parties is necessary proof of such consent must be produced.

In the case of expulsion from a family the notice* must state the following particulars :—

1. The name, date of birth, and business, or profession, of the person about to be expelled.

2. The reason for such expulsion, and when the reason first arose.

3. If any other person leaves the family together with the person to be expelled, particulars regarding such person, and the connection subsisting between the two.

If, in consequence of expulsion, the person expelled establishes a new family, he or she must similarly give notice stating :—

1. Particulars regarding the head of the family from which he or she has been expelled.

2. The connection subsisting between the two.

3. Particulars regarding any person, or persons, entering the new family which he or she is establishing, and the connection subsisting between him or her and the person, or persons, concerned.

* This is given by the head of the family from which the person in question is expelled.

It will be seen that the leading idea to be gathered from a study of the Japanese family system is the subordination of the individual to the family. The notion of an individual existing apart from and independently of the family is one which Japanese family law does not entertain. It is the individual in his relation to the family, rather than the individual himself, with which both the law and the society which made it are concerned. Naturally therefore the law regards a person primarily, not as an individual, but as either the head or a member of a family. One of these two capacities is acquired at birth, and one or other is always present, to the extinction of individuality as we understand it.

The influence of the family dominates every relation in life. Is a child born, the question of paternity is merged in the more important consideration of the family to which it is to belong. Is it a question of parental authority, the family, and not the natural tie of relationship, determines its exercise. Is it a matter of succession, it is the family and not the individual which is the central idea. And so with other matters,—with marriage and divorce, adoption and its dissolution. Their importance lies rather in their effect upon the particular family or families in question than in their effect upon the relations between the individuals concerned.*

* This to some extent explains the looseness of the marriage

It would be easy to multiply instances shewing the extent to which respect for the family is carried. Let it suffice to name only two, which may serve also to shew the peculiar working of the system: the separation of children from the father when the latter leaves a family of which he was a member when the children were born; and the posthumous legitimization of children. In the first instance, when children are born to a man who becomes a member of a family, in the legal sense of the expression, by marriage or adoption, these children may be said to belong to the family rather than to him, for, if he leaves it, his children stay behind. In the second instance, a person may be born and die illegitimate; but it is possible for the parents by their subsequent marriage to legitimize the deceased, and ensure the continuity of the family by settling the succession upon a grandchild of whom the deceased was the father. And the impersonal character which pervades the whole system is apparent in the provision under which, pending the minority of a person who is both a parent and the head of a family, his rights in this dual capacity do not remain in abeyance, but are exercised for him by a parent, or guardian, or, in the last resort, by a family council.

tie, in spite of the fact that consideration for the family often acts as a check upon divorce,

With us a member of a family usually regards his connection with it as a mere accident of birth, by its very nature impermanent, to be shaken off whenever it suits him to do so, and as rarely, if ever, to be allowed to interfere with the play of his individual wishes or energies. In Japan, if it is too much to say that the individual exists for the family and not the family for the individual, it is at least correct to say that the actions of an individual are to a large extent controlled by the family to which he belongs, and that to the interests of that family his own are subordinated during the whole of his life.

It is surprising that individuality should survive at all under the circumstances which surround it. Until he is of age, and even afterwards, so long as he does not earn an independent livelihood, a person is subject to parental authority, and the same person until such time as he becomes the head of a family himself, which may never happen, is also subject to the authority of the head of the family to which he belongs. Nor even when such person becomes the head of a family, is of age, and is earning an independent subsistence, does he obtain complete liberty of action. He still remains subject in certain matters to the control of family councils, which may intervene in the interests of the family, or of some member of it, and open to the influence, none the less real because its operation is silent and has no

legal sanction behind it, of the large circle of relatives whose opinion is for him what public opinion is for us. Moreover, the effects of parental influence reach far beyond the legal limitations of parental authority. The doctrine of filial piety is a religion of daily life, governing conduct to an extent which it is not easy to exaggerate. To the wishes and well-being of the parent everything is held ready to be sacrificed, place, prospects in life, and even life itself. Not what will the world think? but what will the family or parents say? is the idea which naturally occurs to a person under these conditions.

It must not be supposed for a moment that the conditions described are regarded as in any way hard by the individual who is subject to them. More than content with things as they are, he is ready to give his sympathy freely to others whom he conceives to be less happily situated than himself; and it never enters into his philosophy to think that he has not as complete liberty of action as from his point of view seems desirable, or even proper.

And at the same time it is well to remember that family law has more of the elasticity of custom than of the rigidity of law, that a code need not be invoked though it exist, and that the present transitional condition of Japanese society may favour a rule being honoured more in the breach than in the observance; and in the light of these considerations there is reason to think that

the restrictions imposed on individual liberty of action may not in practice be so onerous as in theory they appear.

It follows, however, that the ideals of a nation where the family and not the individual is the unit of society must be very different from those of communities where society rests on another basis. To us the drawbacks of a system "so careless of the single life" are obvious. Not only is a check applied to individual energy and ambition, with the result that life in losing something of its value parts also with some of its reality and earnestness, its purposeful vigour, but a certain loss of moral fibre must, it would seem, result from the weakening of the sense of individual responsibility, until a point may be reached when acts in themselves reprehensible are apt to be condoned if committed in the interests of the family.

On the whole the system as it works in Japan is nevertheless not wholly unbeneficial. It helps the weak against the strong and assists* the indigent; it discourages litigation and family scandals; and the very subjec-

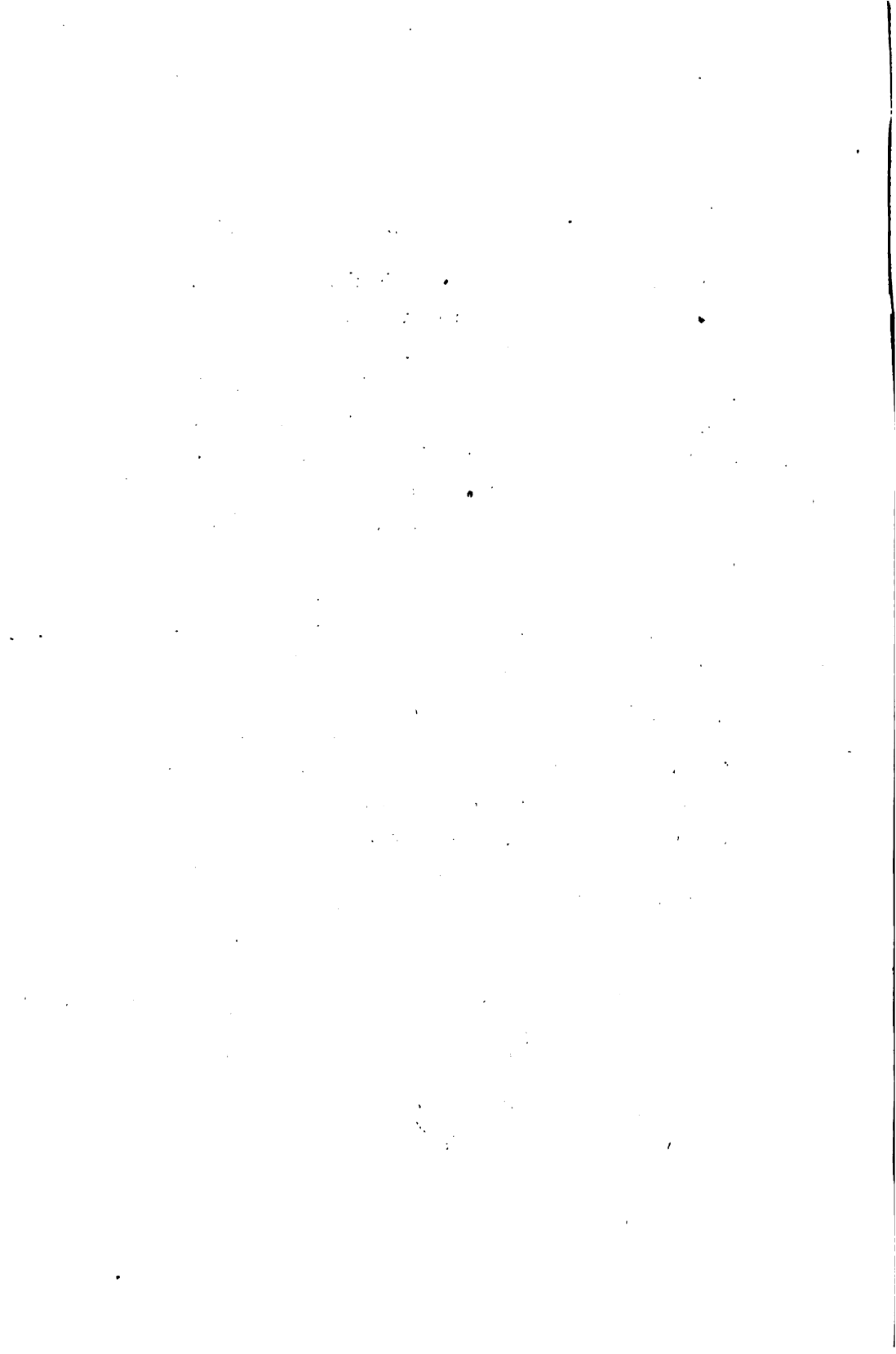
* See Chapter VIII of the Book on Kindred.

Although from our point of view the *duty of support* which is perhaps important enough to have justified its inclusion as a separate feature of the family system in Japan, may be considered to handicap the individual rather heavily in the race of life, and to be pushed to extremes quite contrary to our ethical notions where marriage is concerned, there is much to be said in favour of a system which throws the primary duty of supporting the indigent on the family, and not on the community at large.

tion and self-repression in which the individual is schooled favour the growth of virtues for which the world is certainly none the poorer.

Whether in view of the astonishing changes which have taken place in the course of a single generation, and are still proceeding with a rapidity as yet undiminished, codification be altogether wise may be open to doubt, though we know that the impulse in this direction has been strengthened by reasons which do not affect legislation everywhere. Be this as it may, it is evident that the family system has entered upon the period of its decline, and the time is possibly not very far distant when the unit of society will be the same as in the West. The student of history may be allowed to think that had it not been for the reactionary tendencies which cramped Japan's national development for some centuries, the racial energy and enterprise of her people would have resulted in a very different state of society from that which is recorded in the foregoing pages.





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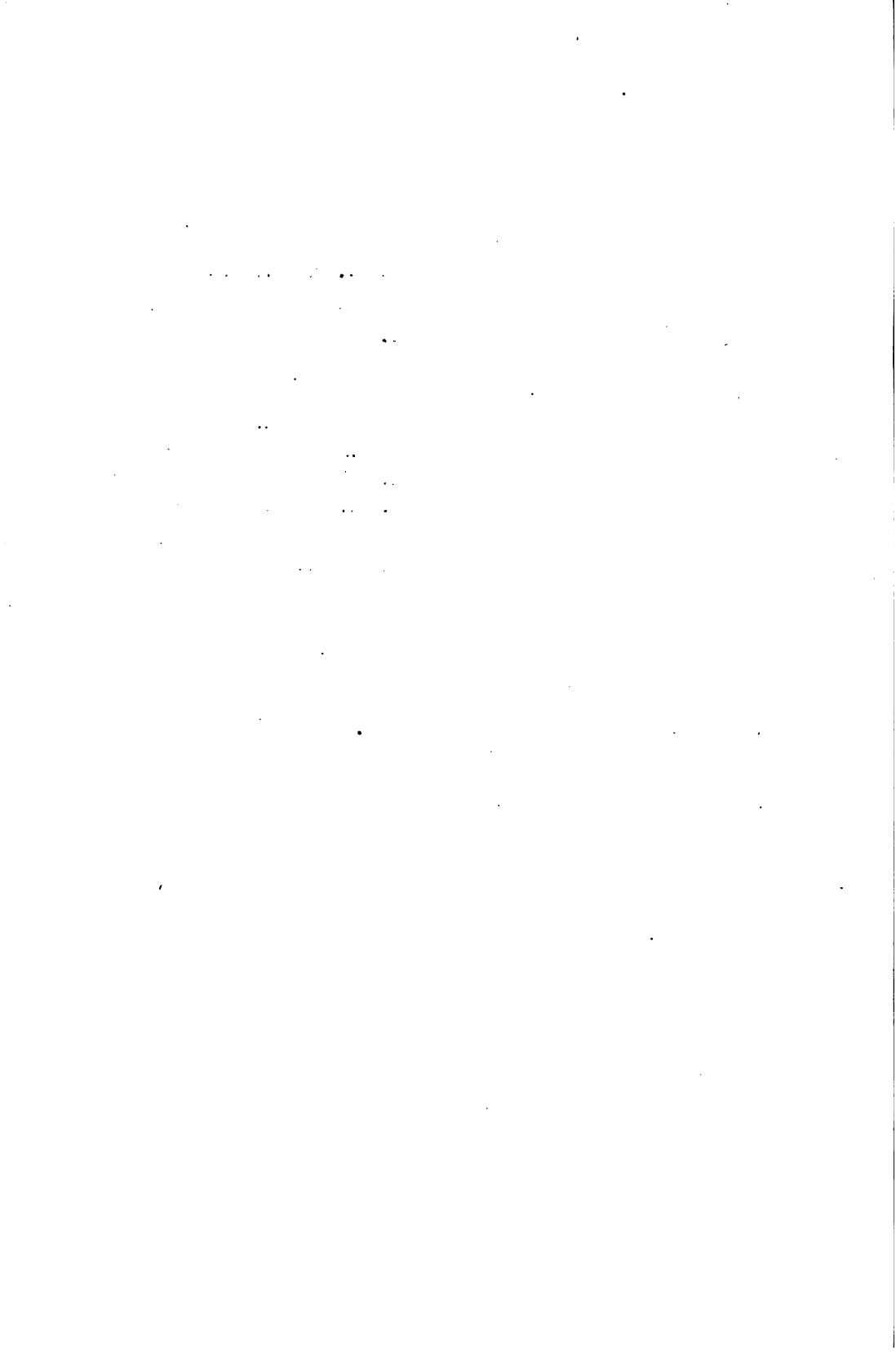
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CIVIL CODE.

法 民

BOOK IV. KINDRED.

篇四第 族親

CHAPTER I.

章一第

GENERAL RULES

則總

725.

十二百七第
條五

The following persons are regarded as kindred* :—

をを左
親はたに
族之る掲

i. Blood relatives within six degrees of relationship.

族の等六(三)
血内親(三)

ii. Husbands and wives.

者偶配(三)

iii. Relatives by marriage within three degrees of relationship.

族の等三(三)
姻内親(三)

726.

十二百七第
條六

Degrees of relationship are determined by reckoning the number of generations between relatives.

定ての親親
む之算世族等
なし數間は

* Here where the context seems to call for a somewhat precise rendering I have used the word "kindred," which, though limited in its strictest sense to relations by consanguinity, includes in its wider meaning both blood relatives and relatives by affinity. Elsewhere I have preferred to use the more convenient, if vaguer, term "relatives." I have also excluded the word "kinship" throughout in favour of the word "relationship." It should be understood, however, that the words "relative" and "relatives" wherever they occur have the special and restricted sense given to the word "kindred" in Article 725.

る始者に傍
ま祖より系
てより同一
の世他始人
数の祖又等
に一にはな
依人邇其定
るに配む
下其偶る

The determination of the degrees of relationship of collateral relatives depends on the number of generations working up from one relative, or his, or her, consort, to the common ancestor, and down from the common ancestor to the other relative.

十二百七第
條七

727.

なをさりは血養
生同血養族子
す一族子とさ
の間縁の養
親に組間親
族於のに及
關け日於ひ
係るよて其

Between an adopted person and the adoptive parents and the latter's blood relatives the same relationship as that between blood relatives is established from the date of the adoption.

十二百七第
條八

728.

な同子の又繼
生一間嫡父
すのにに母
親於於と
族けて庶繼
關るは子
係と親と

Between step-parents and step-children, a wife and a *sho shi*,* the same relationship as that between parent and child is established.

* An illegitimate child who is recognized (but not legitimized) by the father (see Articles 827 and 829). This term illustrates the transitional phase through which Japanese law is passing. Japanese dictionaries define *sho-shi* as the child of a concubine, and this so long as concubinage was sanctioned by the law, and the question of legitimacy never arose, was the accepted meaning of the term. The law of Japan, which in the course of its development on western lines has come to accept the principle of legitimacy, and to admit of the legitimization of children by the subsequent marriage of their parents (see Article 836), now recognizes an intermediate stage between legitimacy and illegitimacy. It is this which is represented by the term *sho-shi*, and the word has thus acquired a new meaning, being applied to all illegitimate children without distinction who are recognized by the father. Practical effect is given in the two kinds of succession to the distinction thus made between legitimate children, *sho-shi*, and illegitimate children. In succession to the headship of a family legitimate children, if males, rank before *sho-shi*, and both legitimate children and *sho-shi*, even though females, before illegitimate children. Again in succession to property the share of a *sho-shi*, or of an illegitimate child, is fixed at half the share of a legitimate child.

729.

十二百七第
條九

Relationship by marriage, and the relationship mentioned in the preceding Article, cease by divorce.

止に係の及姻
む因は親ひ族
り離族前關
て婚關係係

It is the same in cases where one of two married persons dies, and the survivor leaves the family.

きを配合死夫
亦去偶に亡婦
同り者於しの
したかてた一
る其生る方
さ家存場か

730.

條十三百七第

The relationship between an adopted person and the adoptive parents and the latter's blood relatives ceases by the dissolution of the adoption.*

て婚關血親養
止に係族及子
む因はさひさ
り離の其養

If the adoptive parents leave the adoptive family, the relationship between the adopted person and such parents and the latter's own blood relatives thereby ceases.

因親血者り養
り族族及た親
て關さひるか
止係養其さ養
むは子實き家
之さ方はな
にのの其去

If the consort of an adopted person, the lineal descendant of an adopted person, or the latter's consort, leaves the adoptive family together with the adopted person in consequence of the dissolution of the adoption, the relationship between such person and the adoptive parents and the latter's blood relatives ceases thereby.

因其た因は養
り血るり其子
て族さて配の
止ささ之偶配
むのはさ者偶
親其共か者、
族者に養、
關さ養子直
係養家の系
は親を離卑
之及去縁屬
にひりに又

731.

十三百七第
條一

The provisions of the second clause of Article 729, and of the second clause of the preceding Article,

二前項條二第
項條及第十七
の第ひ二九百

* *Ri-yen* as used in the Code has only this meaning. As generally used it is applied to the severance either of the marriage tie, or the tie of adoption, and may therefore mean either divorce or the dissolution of adoption.

適場廢續規
用合絶、定
せに家分は
すは再家本
之興及家
なのひ相

shall not be applied to cases of succession to the headship of the main branch of a family, the establishment of a fresh branch of a family, or the resuscitation of a family which has died out.

章二第

CHAPTER II.

ひ及主戸 族家

THE HEAD AND THE MEMBERS OF A FAMILY.

節一第

SECTION I.

則總

GENERAL RULES.

十三百七第 條二

732.

さひにに戸
す之其在し主
か配るての
家偶者其親
族者及家族

The relatives of the head of a family who are in the family, and his, or her, consort, are regarded as members of his, or her, family.

家家はた戸
族族舊る主
さは戸場の
す新主合變
戸及に更
主ひ於あ
の其てり

In cases where the head of a family is changed the former head of the family and the members of his, or her, family, are regarded as members of the family of the new head of the family.

十三百七第 條三

733.

入家父子
るにのは

A child enters the father's family.

A child whose father cannot be ascertained enters the mother's family. 入の子れ父
る家はさの
に母る知

A child neither of whose parents can be ascertained establishes a new family. すなはさに父
創一る知母
立家子れ共

734.

十三百七第
條四

If the father of a child leaves the family in consequence of the dissolution of adoption, or of divorce, before the child's birth, the provisions of the first clause of the preceding Article apply retrospectively to the commencement of pregnancy. 之には其婚父
を懐前家又か
適胎條なほ子
用の第去離の
す始一り縁出
に項たに生
週のる因前
り規さりに
て定きて離

The provisions of the preceding clause do not apply to cases where both parents have left the family. But if the mother has returned* to her original family before the child's birth, this rule does not apply. きにす場共前
は復但合に項
此籍母に其の
限なわは家規
に爲子之を定
在しのを去は
らた出適り父
する生用た母
さ前せるか

735.

十三百七第
條五

The *sho-shi*† or the illegitimate child, of a member of a family cannot enter the family without the consent of the head of the family. を家に主ひ家
得に非の私族
す入さ同生の
るれ意子庶
こはあは子
さ其る戸及

If a *sho-shi*† cannot enter the father's family, it enters that of the mother. 家き得るの庶
にはさこ家子
入母るさにか
るのさを入父

* *Fuku-seki*, literally "returning to the register." This word which has several meanings is in the code used only in the sense of the return of a person to a family which he, or she, has left. In these cases the name of the person is re-inscribed on the family register from which it was previously expunged.

† See Note on Page 2.

家るこの私
なまの生
創まに子
立は得入か
す一さる母

If an illegitimate child cannot enter the mother's family, it establishes a new family.

十三百七第
條六

736.

は意者家し女
此思かのた戸
限を婚戸主
に表姻主さか
在示のさき入
らし當爲は夫
すた時入婚
る反但夫姻
さ對當はな
きの事其爲

If the female head of a family contracts a marriage by which her husband enters her family, the latter becomes the head of the family. But cases where at the time of such marriage the parties express a contrary intention do not come under this rule.

十三百七第
條七

737.

なま但て在戸
得き其るる主
るは其者家の
こ家族は親
を家他は族
要家の爲族
す戸の主に
主家のこして
の族意他
同たなを家
意得得に

A relative of the head of a family who is in another family may with the latter's consent become a member of his family. But if the relative in question is a member of another family, the consent of the head of that family must be obtained.

さ人若きか前
をのくは未項
要同親成に
す意母權年
な又を者け
得は行な
る後ふる
こ見父さ者

If the person mentioned in the preceding clause is a minor, the consent of the father or mother who exercises parental rights, or of the guardian, must be obtained.

十三百七第
條八

738.

る親其に組婚
自の配入に姻
已親偶り因又
の族者たりは
親に又るて養
族非は者他子
なさ養か家縁

If a person who has entered another family by marriage, or adoption, wishes to make one of his, or her, own relatives who is not a relative of his, or her, consort or adoptive parents, a member of the

family which he, or she, has entered, in addition to conformity with the provisions of the preceding Article the consent of the consort, or of the adoptive parents, must be obtained.

な者定る族婚
得又にと家
るは依き爲又
こ養るはさば
こ親外前人養
な其條さ家
要同配の欲の
す意偶祝す家

It is the same in cases where a person who has left a family which he, or she, has entered by marriage, or adoption, wishes to make a lineal descendant, who is a member of the family which he, or she, has left, a member of his, or her, family.

き爲屬在り婚
亦さなるたる家
同人自自る又
し欲ののま養
す家直其家な
こさ畢に去

739.

十三百七第
條九

A person who has entered another family by marriage, or adoption, returns* in the event of divorce, or the dissolution of adoption, to his, or her, original family.

に協離に組婚
復合婚入に姻
籍に又リ因又
す於たりは
て離るて養
實縁者他子
家のは家縁

740.

條十四百七第

If a person who must, in accordance with the provisions of the preceding Article, return* to his, or her, original family is unable to do so in consequence of that family having died out, he, or she, establishes a new family. But he, or she, is not precluded from resuscitating the family in question.

再さリ籍前
興きてす條
すは復への規
る一籍き規
こ家を者定
さを爲めに
な創す實依
妨立こ家リ
けすこのて
す但能廢實
實は絶家
家さきに
なる因復

741.

十四百七第
條一

If a person who has entered another family by marriage, or adoption, wishes again to enter another

入他因縁は婚
り家リ組養姻
たにてに子又

* See Note on Page 5.

意及さ家養る family by marriage, or adoption, he, or she, must
 なひきに子者 obtain the consent of the head of the family which
 得買は入縁か he, or she, has entered, and that of the head of his,
 る家婚組に更 he, or she, has entered, and that of the head of his,
 ここの家んに因婚 or her, original family.
 な主は欲り姻又
 要の養すて又
 す同家る他は

こり姻を前
 こ一又は爲項
 な年ささの場
 得内養さ合
 に子しに於
 復縁戸て
 籍組の主同
 なの日は婚
 むむよ意

In cases coming under the preceding clause the head of a family who has not given his consent may within one year from the date of the marriage, or adoption, forbid in advance the return* of the person in question to the family concerned.

十四百七第
 條二

742.

りま立離
 てれう籍離
 其た他せ
 家な家ら
 な者にれ
 去か入た
 り離り家
 た婚た家
 る又る族
 さは後一
 き離復は
 亦縁家
 同にな
 し因拒創

A member of a family who has been expelled from the family establishes a new family. It is the same in cases where a person who having after entrance into another family been forbidden to return* to his, or her, original family leaves in consequence of divorce, or the dissolution of adoption, the family which he, or she. has entered.

十四百七第
 條三

743.

こ他た分さ家
 さ親る家さ族
 な族本なはは
 得の家は他戸
 但家し家主
 未な分又なの
 成再は相同
 年興同廢續意
 者す家絶しあ
 ばる其しる

A member of a family may with the consent of the head of his family succeed to the headship of another family, establish a fresh branch of his family, resuscitate the main branch, or a cadet branch, or a distant branch of his family which has died out,

* See Note on Page 5.

or resuscitate the family of a relative which has died out. But a minor must obtain the consent of the father or mother who exercises parental rights over him, or that of his guardian.

親權は父母若
くは祖父母
の同意を得
ることを要す
るは、同母又
は父の同意を
得るを要す

744.

第十四百七第
條四

The legal presumptive* heir to the headship of a family cannot enter another family, nor establish a new family. But cases where succession to the headship of the main branch of the family is necessary do not come under this rule.

一人は法
定家定
に在る
に要す
るは、但
創家推
定に定
まらな
い。家
に入る
は、相
互に
此種
の相
限を
受く

The provisions of the preceding clause do not preclude the application of the second clause of Article 750.

前十は前
條第七の
規定は、
適用第
二項五
定

745.

第十四百七第
條五

If a husband enters another family, or establishes a new family, his wife follows him into the family in question.

夫は創
り又
は立
ち入
るに
随ひ
て、
他家
に入る
は、其
の家
に入る
に
は、
之を
入
る

SECTION II.

節第二

THE RIGHTS AND DUTIES OF THE HEAD AND THE MEMBERS OF A FAMILY.

戸主及家族の
義務利義

746.

第十四百七第
條六

The head and the members of a family bear the family surname

戸主其氏
は、家
族主
の氏
を
稱す

* See Note to Article 973.

十四百七第
條七

747.

ののてに其戸
眞義扶對家主
ふ務養し族は

The head of a family is bound to support the members of his, or her, family.

十四百七第
條八

748.

さは得の家
す特た名族
有るにか
財財於自
産産て己

Property acquired by the member of a family in his, or her, own name is regarded as his, or her, special property.

さ産分執戸
推は明れ主
定戸なに又
す主ら屬は
のさす家
財るる族
産財かの

Property in regard to which it is not clear whether it belongs to the head of a family, or to one of its members, is presumed to be the property of the head of the family.

十四百七第
條九

749.

こ居意家
さ所に族
なをな反は
得定し戸
すむて主
る其の

A member of a family cannot fix his, or her, own place of residence in opposition to the wish of the head of the family.

のは在指に家
義之ら定違族
務にさし反か
な對るたし前
免し問るて項
るては居戸の
扶戸所主規
養主にの定

So long as a member of a family contravenes the provisions of the preceding clause by not living in the place of residence appointed by the head of the family, the latter is relieved from the duty of support.

若なにめ主前
し催居其は頃
同告所指相の
族する定當場
かる轉しの合
其こすた期に
催さへる間於
告なき場をて
に得官所定戸

In cases coming under the preceding clause the head of the family may fix a suitable time, and call upon such person to move his, or her, residence within that time to the place appointed by him. If the member of the family fails to comply with this demand,

the head of the family may expel him, or her, from the family. But cases where the member of the family is a minor do not come under this rule.

限者其す月應
にな家る主せ
在る族こはざ
らさか之る
すき未なをこ
は成得離き
此年但籍は

750.

條十五百七第

For marriage and for adoption a member of a family must obtain the consent of the head of the family.

さ意は組又家
なな戸なは族
要得主爲養か
するのす子婚
こ同に縁姻

If a member of a family marries, or adopts, in contravention of the provisions of the preceding clause, the head of the family may within one year from the date of such marriage, or adoption, expel him or, her, from the family, or forbid his, or her, return to it.

籍り婚爲し家
な一姻して族
拒年又た婚つ
む内はる姻前
こに養さ父は
さ離子さばの
さな籍縁は養規
得な組戸子定
爲の主縁に
し日は組違
復よ其を反

In cases where a member of a family has adopted, if such member is, in accordance with the provisions of the preceding clause, expelled from the family, the person adopted follows the adoptive parent into his, or her, family.

にはれ規る家
入養た定場族
る親るに合か
にこ從に養
隨きひ於子
ひは離てな
て其籍前爲
其養せ項し
家子らのた

751.

十五百七第
條一

If the head of a family is unable to exercise his, or her, rights, they are exercised by the family council. But cases where there is some person who exercises parental rights over the head of the family, or where there is a guardian, do not come under this rule.

限其し會さ戸
に後て之能主
在見親をはか
ら人權行さ其
すあをふる權
る行但さ利
さふ月きな
き者主は行
は又に親ふ
此は對族こ

節三第

SECTION III.

失喪の權主戸

THE LOSS OF THE RIGHTS OF THE
HEAD OF A FAMILY.十五百七第
條二

752.

す爲さ具け戸
すれ備た主
こはするは
こ隠る條左
な店に件に
得な非の揚

The head of a family cannot abdicate unless the following conditions are fulfilled:—

こな以十滿(二)
る上年六(一)

i. The attainment of the age of sixty.

爲單人ろ能(二)
純か家力(一)
こ承相督を完
こ認續相有全
なの續すの

ii. The unconditional acceptance of succession by the heir to the headship of the family who must have full legal capacity.

十五百七第
條三

753.

な相許に得戸
定續可至さ主
め人なりるが
其あ得た事疾
承らてる由病
認さ隠こに
なる店き因本
得さかはり家
なき爲前ての
はす條爾相
こ豫この後續
なめこ規家又
家を定政は
す督得にな再
相但拘執興
續法はる其
人定らこ他
たのすこ已
る推裁能む
へ定判はこ
き家所さこ
者督のるな

If the head of a family is unable, owing to sickness, the necessity of succeeding as heir to the headship of, or resuscitating, the main branch of the family, or other unavoidable causes, to continue the management of the affairs of the family, he may, notwithstanding the provisions of the preceding Article, abdicate with the consent of a Court of law. But if there is no legal presumptive* heir to the headship of the family, he must before doing so determine the person who is to be heir to the headship of the family, and obtain his acceptance of the succession.

* See Note to Article 973.

754.

十五百七第
條四

If the head of a family wishes to enter another family by marriage, he may abdicate in accordance with the provisions of the preceding Article.

こ從は入り戸
さひ前さて主
な隠條欲他か
得居のす家婚
を規るに姻
爲定さ入に
すにきら因

If in cases where the head of a family wishes to enter another family by marriage without abdicating a registrar accepts notice from him to that effect, he shall be regarded as having abdicated on the date of his marriage.

な戸届す姻戸
爲主出るに主
しはを場因か
た婚受合り隠
る姻理に他居
ものし於家を
の日れてに爲
さなる戸入さ
看於さ籍らす
做てき史んし
す隱はかさて
居其其欲婚

755.

十五百七第
條五

The female head of a family may abdicate irrespective of age.

こ居は年女
さなら齡戸
な爲すに主
得す隱拘は

The female head of a family who is married must obtain her husband's consent to her abdication. But the husband cannot refuse to give his consent unless he has just reasons for doing so.

なる但意を有
拒に夫を爲夫
む非は得すの
こさ正るに女
これ常こは戸
なはのさ其主
得其理を夫か
す同由娶の隱
意あす同居

756.

十五百七第
條六

For the abdication of a person without legal capacity the consent of his, or her, legal representative is not necessary.

さ意代に隱無
なを理は居能
要得人其を力
せるの法爲者
すこ同定すひ

十五百七第
條七

757.

すりによひ隠
て相り其居
其出之家は
効つな督隠
力る戸相居
なを籍續者
生因吏人及

Abdication takes effect when notice thereof is given to a registrar by the person abdicating and the heir to the headship of the family.

十五百七第
條八

758.

求る五第居隠
す隠十七届居
る居三百出者
の條五の親
と取の十日族
を消規二より
得な定條三及
裁に又三ひ
判違は个檢
所反第月事
にし七内は
請た百に隠

A relative of a person who has abdicated, or a public prosecutor, may within three months after notice of abdication has been given apply to a Court of law for the annulment of an abdication which contravenes the provisions of Articles 752 or 753.

求にきし條女
す其はて二戸
取夫隠第主
こ消は居項か
さ前なの第
か裁項爲七
得判のし定百
所期たに五
に間る違十
請内さ反五

If the female head of a family has abdicated in contravention of the second clause of Article 755, her husband may within the period named in the preceding clause apply to a Court of law for its annulment.

十五百七第
條九

759.

但隠し隠に隠
追居又居因居
認のは者り又
な取強又て又
爲消追は隠は
しなな家居か
た裁免督の家
判れ相届相
所た續出續
さきに人か人
は請時ば爲か
此求より其訴
限すり誰た欺
にる一欺る又
在と年なさば
らな内發き強
す得に見は追

If notice of abdication is given in consequence of fraud, or compulsion, by the person abdicating, or by the heir to the headship of the family, the person who has abdicated, or the heir, may within one year from the date of the discovery of the fraud, or of the release from compulsion, apply to a Court of law for the annulment of the abdication. But cases where the act in question has been ratified do not come under this rule.

So long as the person who has abdicated, or the heir to the headship of the family does not discover the fraud, or remains under compulsion, a relative, or a public prosecutor, may apply for the annulment of the abdication. But if after such application has been made the act in question is ratified by the person who has abdicated, or the heir, the right of annulment thereby ceases.

又せ隠
相さす居
は續を檢又者
之人得事は又
にに但も強は
因追其り迫家
り認請隱を督
てを求居免相
消爲ののれ續
滅し後取さ人
すた隠消るか
る居を問詐
さ者請は欺
き父求其な
ばはす親發
取家る族見

If ten years have elapsed from the date of notice of abdication, the right of annulment mentioned in the preceding two clauses ceases by prescription.

因さなの權前
りき經日は二
ては過も隱項
消時しり居の
滅致た十届取
すにる年出消

760.

條十六百七第

A person who before the annulment of an abdication has become a creditor of the heir to the headship of the family may call upon the person who by virtue of the annulment is still head of the family to satisfy his claim. But he is not precluded from demanding payment from the former.

るさ對取の隱
請をし消債居
求得てに權の
な但の因者取
妨家辨りさ消
す相請戸りに
續求主た家
人なたる督
に爲る者相
對す者は續
すこに其人

If the creditor in question knew at the time he acquired his right of action of the existence of a reason for the annulment of the abdication, he can demand payment from the heir only. It is the same with respect to obligations incurred by the heir before succeeding to the headship of the family, and those which are personally and exclusively his own.

專續を家原債
屬前爲督因債
すす相の者
るりこ續存か
債負さ人す
務摩をにる權
にせ得對こ取
付る家しこ得
の債督てをの
亦務相の知當
同及債みり時
しひ人辨た隱
其の辨る居
一家のさ取
身督請き消
に相求はの

十六百七第
條一

761.

隠居の者又は
妻の居る家
に之を失は
しむるに抗
して其前夫
の主たる家
を繼承する
ことを得
ずるは非
ず

The loss, by abdication, or by marriage into the wife's family of the rights of the head of a family cannot be set up against a creditor or debtor of the former head of a family unless notice of the fact has been given by the latter, or by the heir to the headship of the family, to the creditor or debtor in question.

十六百七第
條二

762.

新に家を
たてしむ
るに其家
族を廢し
て之を
繼承する
ことを得
ずるは非
ず

A person who has established a new family may abolish it and enter another family.

裁判官の
裁可を得
ずる限り
に於ては
其家族を
廢し得ず
るは非
ず

A person who by succession has become the head of a family cannot abolish it. But cases where permission to do so has been obtained from a Court of law for the purpose of succession to the headship of, or of resuscitating, the main branch of a family, or for any other just reason, do not come under this rule.

十六百七第
條三

763.

戸主の
家族が
其家に
入るに
適する
は非
ず

If the head of a family abolishes it legally, and enters another family, the members of his family also enter that family.

十六百七第
條四

764.

戸主の
家族が
其家に
入るに
適する
は非
ず

If there is no heir to the headship of a family which has lost its head, such family is regarded as

having become extinct, and each member of it establishes a new family. Children follow the father; but if the father cannot be ascertained, is in another family, or is dead, they follow the mother and enter her family.

はきさ子家は母若るは族絶にくと父は家隨はきに各しひ死、隨一たて亡他ひ家る其し家又なも家たに父創のる在か立さ入さる知すしるきこれ但其

The provisions of the preceding clause do not preclude the application of Article 745.

を條百定前防の四は項け適十第のす用五七規

CHAPTER III.

章三第

MARRIAGE.

婚姻

SECTION I.

節一第

THE FORMATION OF MARRIAGE.

立成の婚姻

SUB-SECTION I.

款一第

THE MAIN POINTS OF MARRIAGE.

件要の婚姻

765.

十六百七第
條五

Men and women cannot marry unless they have attained the full ages of seventeen and fifteen years respectively.

なをさ五年男得爲れ年女はすすほには滿こ婚至滿十さ姻ら十七

十六百七第
條六

766.

さなれる配
な爲て者偶
得す婚は者
すこ姻重あ

A married person cannot contract another marriage.

十六百七第
條七

767.

これしり又女
さはた六はは
な再る今取前
得婚後月消婚
すなになのの
爲非經日解
すさ過よ消

A woman cannot re-marry until six months have elapsed from the date of the dissolution, or annulment, of her previous marriage.

用りて胎は女
せ前はし取
す項其た消前
の分のの婚
規婉場前の
定の合よ解
な日りに消
適よ於懷又

In cases where a woman was pregnant before the dissolution, or annulment, of her previous marriage, the provisions of the preceding clause cease to apply from the date of the child's birth.

十六百七第
條八

768.

こさる宜離姦
さ婚者告婚通
な姻はな又に
得な相受は因
す爲姦け刑り
す者たのて

A person who has been divorced for adultery, or has received a criminal sentence for this offence, cannot marry her paramour.

十六百七第
條九

769.

は方さ於内直
此のなての系
限傍得は傍血
に系す婚系族
在血但姻血又
ら族養な族は
すこ子爲の三
のこす問親
間養こに等

Marriage cannot take place between lineal blood relatives, or between collateral relatives who are within three degrees of relationship. But this rule does not apply between an adopted person and the relatives of the adoptive parents.

770.

條十七百七第

Marriage cannot take place between relatives by marriage in the direct line. It is the same after the relationship by marriage has ceased in accordance with the provisions of Article 729.

たり十さて直
る姻九なは系
後族條得婚姻
亦關のす姻淡
同係規第なの
しか定七爲間
止に百すに
み依二こ於

771.

十七百七第
條一

Even after the relationship has ceased in accordance with the provisions of Article 730, marriage cannot take place between an adopted person, or his, or her consort, an adopted person's lineal descendant, or the latter's consort, and the adoptive parents, or their lineal ascendants.

婚族百直又養
姻關三系は子
な係十尊其
爲か七屬配其
す止條さ偶配
こみのの者偶
さた規間さ者
なる定に養
得後に於親直
すさ依て又系
雖りばは卑
も親第其屬

772.

十七百七第
條二

For the marriage of a child the consent of the parents in the family must be obtained. But this rule does not apply to men and women who have attained the full ages of thirty and twenty five years respectively.

る満但意其子
後二男を家が
は十か得に婚
此五満る在姻
限年三ころな
にに十さ父爲
在達年を母す
らし女要のに
すたかす同は

If one of the parents cannot be ascertained, or is dead, or has left the family, or is unable to express an intention, the consent of the other parent is sufficient.

のる思なき父
みさな去、母
なき表り死の
以は示た亡一
て他するし方
足のあるさたか
る一こさる知
方さ又され
の能はきさ
同は其さる
意さ意家さ

父亡るる年
母し母の
共たるこ
に又さ
知れさ
意、さ
家、さ
をさ
表去さ
示り
未死
成すた

If both of the parents cannot be ascertained, or are dead, or have left the family, or are unable to express an intention, a minor must obtain the consent of his, or her, guardian, or of the family council.

第十七百七
條三

773.

繼子か
父の
母又
婚又
姻は
嫡
同母

If the step-parents, or the wife of the father,* do not consent to the marriage of a child,† the latter may marry with the consent of the family council.

第十七百七
條四

774.

禁婚
治
者
後
見

A person interdicted from the management of his, or her, property does not require to obtain the guardian's consent to his, or her, marriage.

第十七百七
條五

775.

婚
戸
籍
は
吏
之

Marriage takes effect when notice of the fact is given to a registrar.

二
方
以
及
之
名
年
當
口
證
人

The notice mentioned in the preceding clause must be given by both parties, and by two witnesses who are of age, either verbally, or by a document bearing the signatures of all.

* See Article 728.

† The word "child" has here no reference to age. It means a person whose parents are alive.

776.

十七百七第
條六

A registrar cannot accept the notice given until after he has satisfied himself that the marriage does not contravene the provisions of the first clause of Article 741, those of the first clause of Article 744, those of the first clause of Article 750, those of the first clause of Article 754, those of Articles 765-73, inclusive, and those of the second clause of the preceding Article, and other laws and regulations. But if in cases where the marriage contravenes the provisions of the first clause of Article 741, or those of the first clause of Article 750, the parties, in spite of their attention being called to the fact by the registrar, wish to give notice, this rule shall not apply.

たは非三五戸
る第さ條十稱
に七れ及條吏
拘百はひ第は
は五其前一婚
ら十届條項姻
す條出第、
當第な一第第
事一受項七七
者項理の百百
かのす規五四
其規る定十
届定こ其四一
出にこ他條條
な違なの第第
爲反得法一一
さすす令項、
んる但に
さ場婚違第第
欲合姻反七七
すにかせ百百
る於第さ六四
さて七る十
き戸百こ五四
は籍四さ條條
此吏十な乃第
限か一認至一
に注條め第項、
在意第た七、
らな一る百第
す爲項後七七
し又に十百

777.

十七百七第
條七

If two Japanese who are in a foreign country wish to marry, they may give notice to the Japanese Minister, or to a Japanese Consul, in the country in question. In these cases the provisions of the preceding two Articles shall be applied.

二こ使は婚外
條さ又其姻國
のなは國なに
規得領に爲在
定此事駐さる
な場に在ん日
準合其すさ本
用に届る欲人
す於出日す間
てな本るに
は爲のさ於
前す公きて

款二第

SUB-SECTION II.

及效無の婚姻
消取ひ

INVALIDITY AND ANNULMENT OF MARRIAGE.

十七百七第
條八

778.

さり合左婚
す無にの姻
效限場は

A marriage is regarded as invalid only in the following cases :—

な姻當の(二)
きな事(一)
さ爲者由人
きす間に達
意に因其
思婚り他

i. If owing to mistaken identity, or to other reasons, the parties have no intention to marry.

るは件七さ(二)
る之を十さ(一)
こか缺五る當
さ爲く條さ事
なめに第き者
しに止二但
其まに項其婚
効るに届姻
力さ掲出の
なきげか届
妨はた第出
け婚る七な
ら姻條百爲

ii. If the parties do not give notice. But if in the notice given there is merely a defect in the observance of the conditions mentioned in the second clause of Article 775, the validity of the marriage is not impaired thereby.

十七百七第
條九

779.

得消れ依條婚
すはるの姻
こ之に規
さな非定後
を取さに七

A marriage cannot be annulled except in accordance with the provisions of the following seven Articles.

條十八百七第

780.

檢其の至第
事戸婚規第七
よ主姻定七百
りにはに百六
其親各達七十
取族當反十五
消又事し一條
なば者た條乃

With regard to a marriage which contravenes the provisions of Articles 765-771, inclusive, either of the parties, the head of the family, a relative, or a public prosecutor, may apply to a Court of law for its annul-

ment. But a public prosecutor cannot make this application after the death of one of the parties.

後方事の裁
こははこ判
さ之死當所
なな亡事な
得請し者得請
す求たの但求
する一檢す

In the case of a marriage which contravenes the provisions of Articles 766-8, inclusive, the consort of the person concerned, or a previous consort, may apply for its annulment.

請前は違七第
求配當反百七
す偶事し六百
る者者た十六
こものる八十
こ亦配婚條六
な其偶姻の條
得取者に規乃
消又付定至
なはてに第

781.

十八百七第
條一

*With regard to a marriage which contravenes the provisions of Article 765, if a person of unsuitable age has attained suitable age, application for its annulment cannot be made.

すき適婚規第
るは齡姻定七
こ其にはに百
こ取達不達六
な消し適反十
得なた齡し五
ず請る者た條
求さかるの

A person of unsuitable age may within three months after attaining suitable age still apply for the annulment of the marriage. But cases where ratification has occurred do not come under this rule.

さたこ婚た不
きるさ姻る適
は後をの後齡
此追得取向者
限認但消ほは
にを適を三適
在爲齡請个齡
らしに求月に
すた達す間違
るしる其し

782.

十八百七第
條二

With regard to a marriage which contravenes the provisions of Article 767, if six months have elapsed

る反定條大第
婚しにの十七
姻た違規七百

* This Article must be read with reference to the preceding Article. The meaning is that whereas *up to the time of the attainment of suitable age* either of the parties, the head of the family, a relative, or a public prosecutor, may apply for the annulment of the marriage, *after the attainment of suitable age* application for annulment can only be made by the person concerned.

若其後經消若
 前は消過の
 婚しは前
 解より解
 消六消
 く
 月
 取
 こは婚を取

from the date of the dissolution, or annulment, of the previous marriage, or if the woman has become pregnant after her re-marriage, application for annulment cannot be made.

第十七百八第
 條三

783.

第七百七十七
 條三
 得る權反第
 同裁利し七
 意判なる百
 詐せ婚十二
 欺請し姻條
 又求者は同
 強り意規定
 迫こ其をに
 取爲に
 因を消す違

With regard to a marriage which contravenes the provisions of Article 772, application for annulment may be made to a Court of law by a person who had the right to consent to the marriage. It is the same in cases where consent was the result of fraud, or compulsion.

第十八百七第
 條四

784.

す於の消前
 て場權條
 消合はの
 滅に左取

The right of annulment mentioned in the preceding Article ceases in the following cases:—

(一)
 たれをさせ
 るたをなし
 たる見知者
 き後しりや
 六若た婚を
 个月く姻爲
 月な後あり
 経強又す權
 過迫は利有
 し詐るを
 し欺欺こ有

i. If six months have elapsed since the person who had the right to give consent to the marriage became aware of it, or since the discovery of the fraud, or the release from compulsion.

(二)
 た認し利を
 るを者な
 き爲か有
 し追せ權意

ii. If the person who had the right to give consent to the marriage ratifies it.

(三)
 たをよ届
 る經り出
 さ過の
 きし年日
 婚姻

iii. If two years have elapsed since notice of the marriage was given.

785.

十八百七第
條五

A person who has married in consequence of fraud, or compulsion, may apply to a Court of law for its annulment.

さ所姻し因許
むにのたり欺
得請取るて又
求消者婚は
すなは姻強
る裁其を迫
こ判婚爲に

The right of annulment mentioned in the preceding clause ceases if three months have elapsed since the discovery of the fraud, or the release from compulsion, or if ratification occurs.

は追三はか前
消認个強詐項
滅を月迫欺取
す爲なを消
し經免發權
た過れ見は
るしたし當
さ又る若事
きは後く者

786.

十八百七第
條六

In cases of *muko-yōshi** adoption either of the parties may apply to a Court of law for the annulment of the marriage on the ground of the invalidity, or annulment, of the adoption. But there is no objection to the application for annulment of the marriage being joined to the application for the recognition of the invalidity of the adoption, or for its annulment.

の又請由事婚
取は求さ者養
消取すしは子
を消るて縁縁
請のこ婚組組
求請さ姻のの
す求かの無場
るに得取效合
こ附但消又に
さ帶縁なは於
かし組裁取て
妨ての判消は
け婚無所を各
す姻效に理當

The right of annulment mentioned in the preceding clause ceases if three months have elapsed since the parties knew of the invalidity, or annulment, of the adoption, or if the right of annulment has been relinquished.

る又り其縁前
さはた取組項
さき其る消のの
は取後あ無取
消消三リ效消
滅權个たるは
すな月るこ當
抛をこさ事
棄經な又者
たし知はか

* *Muko-yōshi* is the term applied to an adopted person who by marriage with a daughter of the head of the adoptive family becomes the son-in-law of his adoptive parents, his adoption having been effected with a view to this marriage. The objection to the rendering of this term by the words "adopted son-in-law," which is the usual translation, is that the adoption precedes, or is coincident with the marriage, and never follows it, as might be inferred from the rendering in question. (See also remarks on adoption in Introduction).

十八百七第
條七

787.

さにな其取婚
す及既効消姻
は往力はの

The annulment of a marriage has no retrospec-
tive effect.

すく得事存婚
るた者すの
限るか姻の
さ婚こ當
なさ姻こ時
要にきはな其
す於て現因知取
其にりち消
返利てさの
還益財し原
なを産し因
爲受を當

If a party to a marriage who at the time of such marriage did not know of the existence of a reason for annulment has obtained property thereby, the obligation to return it is limited to the extent of the benefit which is being actually derived from it at the time of rendition.

害善還にる婚
賠償意このこ
なるりさの當
のてをな時
責しこ得を
にさをたり其
任さな要る取
すばす利消
之尚益當
にほの事原
對相全者因
して手都はの
て方な婚存
損か返姻す

A party to a marriage who at the time of such marriage knew of the existence of a reason for annulment must return the whole of the benefit obtained thereby. Moreover if the other party acted in good faith, he, or she, is bound to give compensation for damage.

節二第

SECTION II.

力効の姻婚

EFFECT OF MARRIAGE.

十八百七第
條八

788.

入のり姻妻
る家てには
に夫因婚

A wife enters by marriage the family of her husband.

A *niū-fu** and a *muko-yōshi*† enter the wife's family. 入の子ひ入る家は婿夫に妻養及

789.

十八百七第
條九

A wife is bound to live with her husband. ふ務す妻なる同は貞義居夫

A husband must cause his wife to live with him. なむをし夫要る爲てはすこ妻とし居な

790.

條十九百七第

A husband and wife are mutually bound to support one another. なす養互夫貞義をに婦ふ務爲扶は

791.

十九百七第
條一

If a wife is a minor, her husband, if he has attained majority, exercises the duties of guardian. ふのは成な妻職其年る未務後者と成な見のき年行人夫は者

792.

十九百七第
條二

If a contract is concluded between a husband and wife, it may be cancelled by either party at any time during the marriage. But the rights of a third person must not be injured. 且但よ中た夫なを三り何る婦得者之時とににきに權取ては於利消も其てなす夫契契約害に婦約約すとのは一婚爲こ得方姻し

* The term applied to a man who on his marriage enters his wife's family.

† See Note on previous page.

節第三

SECTION III.

制産財婦夫

SYSTEM FOR THE REGULATION OF THE
PROPERTY OF MARRIED PERSONS.

節一第

SUB-SECTION I.

則總

GENERAL RULES.

十九百七第
條三

793.

む産々別前夫
る關り段に婦
所係しの其か
にはさ契財婚
依次き約産姻
る款はなにの
に其爲付届
定財さき出

If married persons before giving notice of their marriage do not make any special contract with regard to their property, their positions in regard to it are regulated by the next sub-section.

十九百七第
條四

794.

抗婦爲婚了夫
すのす姻る婦
る承にの契か
こ繼非届約法
さ人さ出な定
か及れま爲財
得ひはてし産
す第之にた制
三を其るに
者以登さ異
にて記さな
對夫なはり

In cases where married persons have made a contract which differs from the system established by law for the regulation of property, it cannot be set up against their successors, or a third person, unless it is registered before notice of their marriage is given.

十九百七第
條五

795.

後合約に國外
日にを異の國
本於爲な法人
のくしり定か
國婚了た財夫
籍姻るる産の
なの場契制本

In cases where foreigners have made a contract which differs from the system established by law for the regulation of property in the country of the husband, if after marriage they acquire national status

in Japan, or establish their domicile therein, this contract cannot be set up in Japan against their successors, or against a third person, unless it is registered within one year after the acquisition of the national status, or the establishment of the domicile, in question.

考てれ其定取
に夫は契め得
對婦日約たし
抗の本なる又
す承に登さば
る繼於記き日
こ人てすは本
さ及はる一に
なび之に年住
得第を非内所
す三以さにな

796.

十九百七第
條六

The positions of married persons in regard to their property cannot be changed after notice of their marriage has been given.

する之屑關夫
こな出係婦
さ變のはの
な更後婚財
得すは姻産

If in cases where one of the married persons manages the property of the other, the property in question is endangered by mis-management, the other person may apply to a Court of law to be entrusted with its management.

裁自く理産夫
判らしのを婦
所其た失管の
に管る常理一
請理さにする
求なき因るか
す爲はり場他
るさんの財に
こんの財に一
さこ一産於方
なさ方なての
得なは危管財

In the case of joint property, at the time of making the application mentioned in the preceding clause an application for partition of the property may also be made.

求共は共
すに前有
る其項財
こ分の産
さ割請に
なな求付
得請さて

797.

十九百七第
條七

If, in accordance with the provisions of the preceding Article, or as the result of a contract, the manager of property is changed, or a partition of joint property takes place, such fact cannot be set up against the

るのしり契前
さ分又管約條
き割は理のの
はを共人結規
其爲有な果定
登し財變に又
記た産更依は

な對及夫れを successors of the husband and wife, or against a third
 得抗び婦は爲 person unless it is registered.
 すす第の之す
 る三承なに
 こ者繼以非
 さに人てさ

款二第

SUB-SECTION II.

SYSTEM ESTABLISHED BY LAW NOR THE
 制産財定法 REGULATION OF PROPERTY.

十九百七第
 條八

798.

なる但費生夫 The husband bears all the expense connected
 貢妻用すは with a marriage. But if the wife is the head of the
 擔さつかる婚 family, she bears it.
 すは戸貢一姻
 妻主擔切
 之たすのり

妨定第十は前
 けの八九第項
 す適章條七の
 用の及百規
 な規ひ九定

The provisions of the preceding clause do not
 preclude the application of the provisions of Article
 790, and those of Chapter VIII.

十九百七第
 條九

799.

利収産其は夫
 な益の配用又
 有か使偶方は
 す爲用者に女
 す及の従戸
 權ひ財主

A husband, or the female head of a family, has
 the right to use and acquire profit from the property
 of his, or her, consort in accordance with the uses
 to which it may rightly be applied.

さ利よ財は夫
 な息り産其父
 要か其の配は
 す拂償果偶女
 ふ務實者戸
 この中の主

A husband, or the female head of a family, must
 pay the interest on the debts of his, or her, consort
 out of the fruits of the property.

800.

條百八第

The provisions of Articles 595 and 598 extend to the cases mentioned in the preceding Article.

す合定九條第
には十及五
之前八び百
な條條第九
準のの五十
用場規百五

801.

條一百八第

A husband manages the property of his wife.

理を財妻夫
す管産のは

If a husband is unable to manage the property of his wife, she manages it herself.

管妻ざる産夫
理自ることか
すらさ管妻
之き能理の
なばはす財

802.

條二百八第

A husband must obtain his wife's consent for contracting debts on her behalf, for assigning her property, giving it as security, or letting it to hire for a period exceeding that named in Article 602. But this rule does not apply to dealing with the fruits of the property for the purposes of the management.

處を貸は財夫
分要を第産か
すす爲六を妻
る但す百譲の
け管に二渡爲
此理は條しめ
限の妻のに
に目の期之借
在的承間を財
らな諸を擔な
す以か超保爲
て得ぬにし
果るて供
實こ其し妻
なを實父の

803.

條三百八第

In cases where a husband manages the property of his wife a Court of law may, on the wife's application, if it is considered necessary, cause the husband to furnish suitable security in respect of the management and return of the property.

な及因さ合夫
供ひりきにか
せ返夫は於妻
し還を賤ての
むにし判必財
る付て所要産
こき其はあふ
さ相財妻り管
な當産のさ理
得のの請認す
擔管求むる
保理にる場

條四百八第

804.

このは事日
看代妻に常
做理は付の
す人夫て家

With regard to daily household matters, a wife is regarded as her husband's agent.

こ第但否の夫
さ三之認全は
な者なす部前
得に以る又項
す對てこはの
抗善さ一代
す意な部理
るの得な權

A husband may decline to recognize in whole, or in part, the agent's powers mentioned in the preceding clause. But this non-recognition cannot be set up against a third person who acted in good faith.

條五百八第

805.

さ同自なし夫
な一己爲又か
要ののすは妻
す注た妻の
意め合つ財
なにに夫産
爲す於のを
するて代管
こさは理理

In cases where a husband manages his wife's property, or a wife acts as the agent of her husband, the same care must be exercised as when each is acting on his, or her, own behalf.

條六百八第

806.

な代管定第第
準理は六六
用なし夫百百
す爲又か五五
すは妻十十
場妻の五四
合つ財條條
に夫産の及
之のを規ひ

The provisions of Articles 654 and 655 extend to cases where a husband manages his wife's property, or a wife acts as her husband's agent.

條七百八第

807.

特得自財姻妻
有た已産前又
財の及よは
産財名ひり入
さ産に婚有夫
すは於姻さ
其て中る婚

The property which a wife, or a *niūfu*,* acquires before marriage, or in her, or his, own name during marriage, is regarded as her, or his, special property.

* See Note on page 26.

Property in regard to which it is not clear whether it belongs to the husband, or wife, is presumed to be the property of the husband, or of the female head of the family.

定主はな属夫
すの夫らす婦
財又さるの
産はるい執
さ女財分れ
推戸産明に

SECTION IV.

節四第

DIVORCE.

離婚

SUB-SECTION I.

款一第

DIVORCE BY ARRANGEMENT.

離婚の上議協

808.

條八百八第

Married persons may effect a divorce by arrangement between themselves.

なる離を其夫
得こ婚以協婦
さすて議は

809.

條九百八第

A person under the full age of twenty five years must, in accordance with the provisions of Articles 772 and 773, obtain for his, or her, divorce by arrangement the consent of the persons who had the right of consent in respect of his, or her, marriage.

意意の七議満
なを規十上二
得爲定二の十
るすに條離五
こ權俵及婚年
さ利りひをに
なを其第爲達
要す婚七すせ
する姻白にさ
るに七はる
者付十第各
のき三七か
同同條百爲

條十百八第

810.

用離定七條第
す婚は十及七
は協五ひ百
之議條第七
な上の七十
準の規百四

The provisions of Articles 774 and 775 extend to divorce by arrangement.

條一十百八第

811.

受る違九十月
理後反條五籍
すにせの條吏
る非き規第は
こさる定二離
なはこ其項婚
得其なのひ第
す届認法第七
出め令八百
なたに百七

A registrar cannot accept notice of a divorce until after he has satisfied himself that it does not contravene the provisions of the second clause of Article 775, and those of Article 809, and other laws and regulations.

け爲さを定戸
らめ雖受に籍
るにも理遠吏
こ其離反か
さ効確たし前
な力はるて項
しな之さ届の
防かき出規

Even if a registrar accepts notice in contravention of the provisions of the preceding clause, the validity of the divorce is not impaired thereby.

條二十百八第

812.

さ者監協爲協
きを護議し議
は定をなた上
父め爲以るの
にさすて者離
属りへ子か婚
すしきの其な

If the persons who effect a divorce by arrangement do not determine by that arrangement the person who is to have custody of the children, this custody belongs to the father.

はは場を因父
母子合去りか
にのにりて離
属監於た婚婚
す設てる家に

In cases where the father leaves the family owing to divorce the custody of the children belongs to the mother.

こ變の内は前
さ更権に監二
なを利於護項
し牛義てのの
す務父範規
るに母圖定

The rights and duties of parents beyond the question of custody are not affected by the provisions of the two preceding clauses.

SUB-SECTION II.

欵二第

JUDICIAL DIVORCE.

婚離の上判裁

813.

條三十百八第

A married person may bring an action for divorce 得すのには夫
in the following cases only :—
る訴限左婦
なりのの
を相違

夫婦の一方に左の場合は、
 夫に限り離婚を提起す
 ることを得

- [illegible]

きを重さり(五)
受大同居配
けるな處居偶
たる待に偶
る侮又堪者
と辱はよ

され遺意者(六)
た棄をより配
るせ以り配
さらて惡偶

た侮はよの(七)
る辱重り直配
さ大處系配
き受な符尊偶
ける又屬者

たなし對已(八)
る侮又しの配
さ辱は之直偶
き辱辱之待尊者
な加重な屬
へ大爲に自

る上生(九)
さ分死配
き明々三偶
なら年者
さ以の

消て姻きに(十)
あ離を又於婿
り婚爲はて婿
た若し養離養
るくした子離子
さほるか婚子
き縁場家なり
組の縁合た
組女たの場
ハにさる合
取於婚さ

條四十百八第

さき行の號前
な爲一の條
得訴に方場第
すを同合一
提意他に號
起しの於乃
すた一て至
るる方夫第
この婦四

v. If such cruel treatment, or grave insult, is received from the consort as to render living together unbearable.

vi. Desertion with evil intention.

vii. If cruel treatment, or gross insult, is received from a lineal ascendant of the consort.

viii. If the consort treats his, or her, own lineal ascendant with cruelty, or gross insult.

ix. If for a period of three years, or more, it is uncertain whether the consort is alive or dead.

x. If, in cases of *muko-yōshi** adoption, a dissolution of adoption takes place, or if, in cases where the adopted person has married a woman of the adoptive family, a dissolution, or an annulment, of adoption takes place.

814.

If, in cases coming under sub-headings i. to iv., inclusive, of the previous Article, one of the two married persons consents to the other's act, an action for divorce cannot be brought.

* See Note on page 25.

It is the same if in cases coming under sub-headings i. to vii., inclusive, one of the two married persons condones the act of the other, or that of the latter's lineal ascendant.

た屬一夫七前
るの方婦號條
さ行又のの第
ぎ爲は一婚一
はを其方合號
亦宥直つに乃
同恕系他於至
しし尊のて第

815.

條五十百八第

A person who has received any of the criminal sentences mentioned in sub-heading iv. of Art. 813 cannot bring a petition for divorce on the ground that his, or her, consort has received a criminal sentence.

こしのたけ第
さて事るた八
離由者る百
得婚あは處十
すのる其利三
訴こ配の條
なを偶宣第
提た者告四
起理にを號
す由同受に
るさ一け揭

816.

條六十百八第

With regard to an action for divorce which is based on any of the grounds mentioned in sub-headings i. to viii., inclusive, of Article 813, the person having the right to bring it cannot do so after one year has elapsed since he, or she, became aware of the fact constituting the reason for divorce. It is the same after ten years have elapsed since the fact occurred.

十起るす因第
年す時るる百
なるよ者離十
經こり婚三
過さ一離の條
した年婚訴第
た得なのは一
るす經原之號
後其遇因を乃
亦事した提至
同實たる起第
し發る事す八
生後實る號
のばを機の
時之知利事
よりをり由
り提た有に

. 817.

條七十百八第

With regard to an action for divorce which is based on the ground mentioned in sub-heading ix. of Article 813, it cannot be brought after the question whether the consort is alive or dead has been set at rest.

すた生婚號第
るる死のの八
こは後訴事百
さは分は由十
な之明配に三
得なを偶因條
す提爲るる第
起り離九

條八十百八第

818.

爲帶りはの第
すした縁場八
こてる組合百
と離さ取に十
な婚さ消於三
得のはのて條
請之請離第
求に求婚十
を附あ又號

If in a case coming under sub-heading x. of Article 813 an application is made for the dissolution, or annulment, of adoption, an application for divorce may be joined to it.

を稟をあ訴第
得し經りは八
すた過た當百
るしる事十
さ又こ者三
きはさか條
は離を離第
之婚知婚十
な請り又號
提求たはの
起のるの事
す權後緣由
る利三組に
こを个取因
と抛月消る

With regard to an action for divorce which is based on any of the grounds mentioned in sub-heading x. of Article 813, the person concerned cannot bring it if three months have elapsed since he, or she, became aware of the fact of the dissolution, or annulment of adoption, or if the right to apply for a divorce has been relinquished.

條九十百八第

819.

命之益用裁第
すにのす判八
る異爲但上百
こなめ裁の十
さり其判離二
なを監所婚條
得る護はにの
處に子之規
分付のを定
なき利率は

The provisions of Article 812 extend to judicial divorce. But a Court of law may in the interests of the children order the question of their custody to be dealt with in a manner different from that which is laid down in that Article.

CHAPTER IV.

章四第

PARENTS AND CHILDREN.

子親

SECTION I.

節一第

TRUE CHILDREN.

子實

SUB-SECTION I.

款一第

LEGITIMATE CHILDREN.

子出嫡

820.

條十二百八第

A child conceived by a wife during marriage is presumed to be her husband's child.

妻は中妻
推夫に
定の
す子子胎婚

A child born after two hundred days have elapsed from the date of the formation of a marriage, or within three hundred days after the dissolution, or annulment, of a marriage is presumed to have been conceived during the marriage.

たるり消百婚
るは三若日姻
も婚百く後成
の姻日は又立
さ中内取はの
推にに消婚日
定懷生の姻よ
す胎れ日のり
したよ解二

821.

十二百八第
條一

In cases where a woman who has re-married in contravention of the provisions of the first clause of Article 767 gives birth to a child, if the father of the child cannot be determined in accordance with the provisions of the preceding Article, a Court of law shall determine.

き父て定第
はな前女に五
裁定條の違百
判むの分反六
所規規し十
こ定して七
なさにな再條
定能依る婚第
むはり場を一
さ其合爲項
る子にしの
その於た規

十二百八第
條二

822.

得認な夫の第
するは場八
るこ子合百
ごさのに二
さを嫡於十
な否出て條

In cases coming under Article 820 a husband may decline to recognize the child as his.

十二百八第
條三

823.

任裁の依法前
す判法り定條
る所定て代の
こは代之理否
ごさ特臨な人認
な別人行に權
要代なふ對は
す理る但す子
人さ夫る又
なき訴は
選は子に其

The right of non-recognition mentioned in the previous Article is exercised by bringing an action against the child, or his, or her, legal representative. But if the husband is the child's legal representative, a Court of law must appoint a special representative.

十二百八第
條四

824.

なき承出後夫
失は認なにか
ふ其しる於子
否たこての
認るさ其出
權さな嫡生

If a husband recognizes a child after birth as his, he loses the right of non-recognition.

十二百八第
條五

825.

さをり知の否
な提一り子認
要起年たのの
すす内る出訴
るに時生は
こ之よな夫

An action to establish the fact of non-recognition must be brought by a husband within one year after he becomes aware of the child's birth.

十二百八第
條六

826.

時に間は者夫
よ達は前な
りし其條る未
之た成のさ成
なる半期き年

If the husband is a minor, the period mentioned in the preceding Article is reckoned from the date of his attaining majority. But cases where the

husband becomes aware of the child's birth after attaining his majority do not come under this rule.

在るに生る成起
らきを後年算
すは知ににす
此り子達似
限たのし夫
にる出たか

If the husband is a person interdicted from the management of his property, the period mentioned in the preceding Article is reckoned from the time when his guardian becomes aware of the child's birth, or from the time when the husband after the annulment of the interdiction becomes aware of the child's birth.

時るの夫
後切つ
り夫聞禁
之かば治
な子禁産
起の治者
算出庶な
す生のる
な取さ
知消き
りあは
たり前
るた條

SUB-SECTION II.

款二第

SHO-SHI AND ILLEGITIMATE CHILDREN.

ひ及子庶
子生私

827.

十二百八第
條七

An illegitimate child may be recognized by the father or mother.

なす之母其私
得るなに父生
こ認於父子
さ知てはは

An illegitimate child which is recognized by the father is regarded as a *sho-shi*.*

さな子る知父
す庶は私し
子之生た認

828.

十二百八第
條八

Even if the father, or mother, is without legal capacity, the consent of his, or her, legal representative is not required for the recognition of an illegitimate child.

さ人さ無す私
なの雖能に生
要同も力に子
せ意其者父の
すな法な父認
得定るは知
る代さ母な
こ理きつ爲

* See Note on page 2.

Recognition takes effect retrospectively from the date of birth. But rights already acquired by a third person cannot be injured.

833.

十三百八第
條三

A father, or mother, who has recognized a child cannot annul such recognition.

さ取其又し認
な消認はた知
得ず知母るな
すこなは父爲

834.

十三百八第
條四

A child, or any other interested person, may plead facts against recognition.

る實て認害子
こな反知願其
ま主對に係他
み張の對人の
得す事しは利

835.

十三百八第
條五

A child, his, or her, lineal descendant, or the legal representative of either, may demand recognition from the father, or mother.

ま認又法又子
か知は定は、
得な母代此其
求に理等直
む對人の系
るしは者卑
こて父の屬

836.

十三百八第
條六

A *sho-shu** acquires through the marriage of the parents who have recognized it the status of a legitimate child.

なたて姻父庶
取る嫡に母子
得身出因のは
す分子り婚其

An illegitimate child which is recognized by the parents during their marriage acquires from the time of such recognition the status of a legitimate child.

取りの生認婚
得た時子知姻
するよはし中
身り其た父
分嫡認る母
な出知私ひ

The provisions of the two preceding clauses extend to cases where the child in question is no longer alive.

な場亡規前
準合し既定二
用にたには項
す之る死子の

* See Note on page 2.

節二第

子養

SECTION II.

ADOPTED PERSONS.

款一第

SUB-SECTION I.

件要の組練

THE MAIN POINTS OF ADOPTION.

十三百八第
條七

837.

な爲はし成
得す養た年
こ子るに
こな者達

A person who has attained majority may adopt.

十三百八第
條八

838.

ささ之年尊
なな長屬
得す養者父
すこ子はは

A person cannot adopt an ascendant, or one who is senior in age.

十三百八第
條九

839.

此すこ男入法
限爲な子た定
にめ得なるの
在にす養男推
らす但子子定
する女さあ家
場婿爲る督
合さす者相
は爲こは續

A person who has a male child who is the presumptive* heir to the headship of a family cannot adopt a male. But cases where it is done for the purpose of making him the husband of a daughter do not come under this rule.

傳十四百八第

840.

さ理了かな後
のし得養見
圖計たす子人
亦算る其さは
同な後任爲被
し終未務す後
はたかこ見
ら管終さ人

A guardian cannot adopt a ward. It is the same after his duties as guardian have ended, so long as the account of management is not closed.

* See Note to Article 973.

The provisions of the preceding clause do not apply to cases which come under Article 848.

適に條百定前
用はの四は項
せ之場十第の
すな合八八規

841.

十四百八第
條一

A married person cannot adopt except in conjunction with his, or her, consort.

す爲さ共は配
すれに其偶
こはす配者
さ縁る偶あ
な組に者る
得な非さ者

The provisions of the preceding clause do not apply to cases where one of two married persons adopts the child of the other. But the consort's consent must be obtained.

なのにな他夫
以同は養の婦
て意他子一の
足なのさ方一
る得一爲の方
る方す子か

842.

十四百八第
條二

If in cases coming under the first clause of the preceding Article one of the married persons is unable to express an intention, the other may adopt in the names of both.

爲方るなて前
すのさ表夫條
こ名き示婦第
さ義はすの一
なな他る一項
得以のこのの
て一さか場
縁方能其合
組はは意に
な雙さ思於

843.

十四百八第
條三

If the person to be adopted is under fifteen years of age, the parents in his, or her, family may consent on his, or her, behalf to the adoption.

さ祖父さ養
なの母き十子
得承之は五さ
諸に其年な
な代家未る
爲りに満へ
すて在なき
こ縁る者

Step-parents, or the wife of the father, in giving the consent mentioned in the preceding clause must obtain the assent of the family council.

要を親諸母繼
す得族なつ父
る會爲前母
このす條又
さ同にのほ
な意は承嫡

第十四百八第
條四

844.

るる爲以爲成
こ父る上し年
さ母にの又の
なのは子は子
要同其か満か
す意家養十養
なに子五子
得在さ年か

For adoption by a child* who has attained majority,
or the adoption of a child of the age of fifteen years,
or more, the consent of the parents in the family to
which the child belongs must be obtained.

第十四百八第
條五

845.

他こ實他入縁
家さ家家り組
になににた又
入要在入るは
るするら者婚
は但父んは姻
此妻母と更に
限かの欲に因
に夫同す養り
在に意る子て
ら隨なささ他
すひ得きし家
てるはてに

If a person who has entered another family by
adoption, or marriage, wishes again to enter another
family by adoption, the consent of the parents in the
original family must be obtained. But cases where a
wife follows her husband into another family do not
come under this rule.

第十四百八第
條六

846.

す合は第條第
に前三第七
之三項二百
な條の項七
準の規及十
用場定ひ二

The provisions of the second and third clauses of
Article 772 extend to cases coming under the three
preceding Articles.

準合二規十第
用に條定三七
す之のは條は
な場前の七

The provisions of Article 773 extend to cases
coming under the two preceding Articles.

第十四百八第
條七

847.

用組の百條七
すに規七及百
之定十ひ七
なは五第十
準縁條七四

The provisions of Articles 774 and 775 extend to
adoption.

* See Note on page 20.

848.

第十四百八第
條八

A person who wishes to adopt may express his, or her, intention by will. In these cases notice of adoption must be given without delay after the will has taken effect by the executor of the will, the person to be adopted, or by the persons who, in accordance with the provisions of Article 843, have consented on his, or her, behalf to the adoption, and by two or more witnesses who have attained majority.

たひ規者か養
る成定、表示な
後年に養示な
遅の依子する爲
滞證りさるん
な人之爲こん
く二にるこさ
縁人代へか欲
組以はき得す
の上り者此る
届よて又場者
出り承は合は
な遺諾第に遺言
すか入於言
すか爲百てな
こ効し四は以て
力た十遺其
なをる三言意
要生者條執
すし及の行思

The notice of adoption mentioned in the preceding clause takes effect retrospectively from the date of the adoptive parent's death.

なて時の出前
生其に死は項
す効過亡はの
力りの親届

849.

第十四百八第
條九

A registrar cannot accept notice of adoption until after he has satisfied himself that the adoption does not contravene the provisions of the first clause of Article 741, those of the first clause of Article 744, those of the first clause of Article 750, those of the preceding twelve Articles, and other laws and regulations.

其の條第第戸
届この七一籍
出を規百項史
なを定五は
を認其十第
づ理め他條組
するたの第
るる法一第
こ後令一第
をに違七
得非ひ百
すれ反十
はせ前十一
はさ二項條

The proviso attached to Article 776 extends to cases coming under the preceding clause.

な場は書十第
準合前の六七
用に項規條百
す之の定但七

條十五百八第

850.

二にに組外
條於駐為國
の其在るに
規定は出さん
を第七なる日
百七す本と
十五この公
條を使と
及得又
ひ此は
前領其
合事國
縁

If it is desired to effect adoption between Japanese who are in a foreign country, they may give notice to the Japanese Minister, or to a Japanese Consul, in the country in question. In these cases the provisions of Article 775, and of the two preceding Articles, shall be applied

款二第

SUB-SECTION II.

及効無の組縁
消取ひ

INVALIDITY AND ANNULMENT OF ADOPTION.

十五百八第
條一

851.

さり合左縁
す無にの組
効依場は

Adoption is regarded as invalid only in the following cases:—

き爲間因他(二)
さすにりの事
き意縁當事人
思組事由違
なな者に其

i. If owing to mistaken identity, or to other reasons, there is between the parties no intention to adopt.

其止第五さ(二)
効一第さ(二)
力項さ當
な二に事
妨き項者
げば及
縁たひ其
る組第出組
は條入の
こ之件百届
さかを四七
な爲缺百出
しめく七爲
にに條十さ

ii. If the parties do not give notice of the adoption; but if in the notice given there is merely a defect in the observance of the conditions mentioned in the second clause of Article 774, or in the first clause of Article 846, the validity of the adoption is not impaired thereby.

852.

第十五百八第
條二

Adoption cannot be annulled except in accordance with the provisions of the following seven Articles.

得遺れ依條繼
すすはるの組
こ之に規は
さな非定後
を取るに七

853.

第十五百八第
條三

Application to a Court of law for the annulment of an adoption which is not in conformity with the provisions of Article 837 may be made by the adoptive parent, or his, or her, legal representative. But cases where six months have elapsed since the attainment of majority by the adoptive parent, or where ratification has occurred, do not come under this rule.

をたる人た第
爲るこより入
し後さ其組百
た六な其組三
る今得取は十
さな月但消養七
さな養な親條
は經親裁又の
此過の判は規
限し成所其定
に又年に法に
在はに請定違
ら追達求代反
す認しす理し

854.

第十五百八第
條四

Application to a Court of law for the annulment of an adoption which is not in conformity with the provisions of Article 838, or those of Article 839, may be made by either of the parties, the head of the family, or a relative.

求り事違八第
す其者反百八
る取其し三百
こ消戸た十三
さな主る九十
か裁又條八
得判は組の條
所親は規又
に族各定は
請よ當に第

855.

第十五百八第
條五

Application to a Court of law for the annulment of an adoption which contravenes the provisions of Article 840 may be made by the adopted person, or his, or her, true* relatives. But cases where since

す消方組定第
るなのはに八
と養親養違百
な判族子反四
得所より又十
但にりはた條
管請其其の
理求取實條規

* Namely the original relatives of the adopted person, as distinguished from the same person's relatives by adoption.

在る个認たの the closing of the account of management ratification
 らさ月なる計 by the adopted person has occurred, or six months
 すきな爲後算
 は經し養か
 此過又子終 have elapsed, do not come under this rule.
 限しはかば
 いた六通り

は爲しに成迫 Ratification has no effect unless it takes place
 其すた能年認 after the adopted person has attained majority, or has
 効にる力には
 な非後を達養
 しざ之回し子 recovered legal capacity.
 れな復又か

復かは計力養 In cases where the account of management is
 し成第算を子 closed before the adopted person has attained majority,
 た年一終同か or has recovered legal capacity, the period mentioned
 るに項は復成
 時達但りせ年 or has recovered legal capacity, the period mentioned
 り又のるる達 in the proviso attached to the first clause of this
 之は期場問せ Article is reckoned from the time the adopted person
 な能問合にす attains majority, or recovers legal capacity.
 起力には管又
 算な養於理は
 す回子ての能

十五百八第
 條六

856.

追り但其縁第 Application to a Court of law for the annulment
 認た具取組八 of an adoption which contravenes the provisions of
 なる配消は百 Article 841 may be made by a consort who has not
 爲後偶而同四 consented to it. But if six months have elapsed
 し六者裁意十一 since the consort in question became aware of the
 た个の判な一 adoption having taken place, he, or she, will be
 る月縁所爲條 regarded as having ratified it.
 もな組にさの
 の經め請さ規
 と過り求り定
 看したすしに
 做たるる配違
 するここ偶反
 とささ者し
 きなをよた
 は知得りる

857.

第十五百八第
條七

Application to a Court of law for the annulment of an adoption which contravenes the provisions of Articles 844-46, inclusive, may be made by a person who had the right to consent to it. It is the same in cases where consent was the result of fraud, or compulsion.

第十組十第
強者より同條百
追ふること其意の四
に因りて取を規十
た得消爲定四
る同をすに違條
さ意裁權違み
き詐所なし第
亦同欺に有た八
し又請せる百
は求し縁四

The provisions of Article 784 extend to cases coming under the preceding clause.

第十組十第
用は條規十第
す之の定四七
な場は條百
準合前の八

858.

第十五百八第
條八

In cases of *muko-yōshi** adoption either of the parties may apply to a Court of law for the annulment of the adoption on the ground of the invalidity, or annulment, of the marriage. But there is no objection to the application for the annulment of the adoption being joined to the application for the recognition of the invalidity of the marriage, or for its annulment.

の又請由事婿
取は求さ者養
消取すしは子
か消るて婚縁
請のこ縁姻組
求請さ組のの
す求をの無場
るに得取效合
に附但消又に
さな婚なは於
なし姻裁取て
妨ての判消は
け縁無所を各
す組効に理當

The right of annulment mentioned in the previous clause ceases if six months have elapsed since the party concerned became aware of the invalidity, or annulment, of the marriage, or if the right of annulment has been relinquished.

る又り其婚前
さばは取姻項
き其消のの
は取後あ無取
消消六り効消
滅權个たな權
す月るること
抛なここ常
棄經さ事
し過な父者
たし知はッ

* See Note on page 25.

第七百八十五條及び
第七百八十七條の規
定は、縁組に之を準用
す。但し第七百八十五
條第二項の期間は之を
六个月とす。

第三款

力効の組織

第八百六十六條

養子に縁組
の日より養
親の嫡出子
たる身分を
取得す

第十六百八
條一

る家養因縁養
に親り組子
入のてには

第四款

紙張

第十六百八
條二

緑組の黨
事者には其
協議を以
て離縁を
爲すべし
を得

The parties to an adoption may dissolve it by arrangement between themselves.

If the adopted person is under fifteen years of age, this dissolution is effected by arrangement between the adoptive parents and the persons who have the right to consent to adoption on behalf of the person adopted.

議利縁親る養
なを組ささ子
以有の養きか
てす承子は十
之る諸に其五
なる者か代離年
な爲は縁未
すのすりは満
協權て養ふ

If after the death of the adoptive parents the adopted person wishes to dissolve the adoption, he may do so with the consent of the head of the family.

爲同なる養
す意さ爲後親
ふなきさ養か
さ得はん子死
なて月さつ亡
得之主欲離し
なのす縁た

863.

十六百八第
條三

A person under the full age of twenty-five years must for the dissolution by arrangement of his, or her, adoption obtain the consent of the persons who have, in accordance with the provisions of Article 844, the right to consent to his, or her, adoption.

意爲依は満
なすり協二
得權其八議十
る利縁四上五
ふな組十の年
さ有に四離に
なす付條縁達
要るきのなせ
す者同規爲さ
の意定する
同なにて者

The provisions of the second and third clauses of Article 772, and those of Article 773, extend to cases coming under the previous clause.

準項三及第第
用の條ひ二七
す場の第項百
合規七、七
に定百第十
之は七三二
を前十項條

864.

十六百八第
條四

The provisions of Articles 774 and 775 extend to the dissolution of adoption by arrangement.

用離定七條第
す縁は十及七
に協五ひ百
之議條第七
な上の七十
準の規百四

十六百八第
條五

865.

受めのひ條戸
理た法第第籍
する令八二吏
る後に百項は
ふに達六十離
さ非反十第縁
なさせ三八の
得れささ條百第
すはるの六七
其の規十百
相と定二七
出な其條十
を認他及五

A registrar cannot accept notice of a dissolution of adoption until after he has satisfied himself that the dissolution is in conformity with the provisions of the second clause of Article 775, with those of Articles 862 and 863, and with other laws and regulations.

け爲さな定戸
らめ雖受に籍
るにも理違吏
る其離し反の
こ效縁なし前
さ力はるて項
あを之さ届の
し妨かき出規

Even if a registrar accepts notice in contravention of the provisions of the preceding clause, the validity of the dissolution of adoption is not thereby impaired.

十六百八第
條六

866.

る訴限左者縁
こなりこの組
る提離場一の
か起縁合方當
得すのには事

One of the parties to an adoption may bring an action for its dissolution in the following cases only :—

ける又方(一)
た侮はよ(一)
る尊重り他
さな大虐の
き受ふ待一

i. If cruel treatment, or gross insult, is received from the other party.

さらて惡一(二)
され違意方(二)
た棄をよ他
るせ以りの

ii. Desertion by the other party with evil intention.

る尊重り直(三)
さな大虐系(三)
き受ふ待尊養
ける又屬親
た侮はよの

iii. If cruel treatment, or gross insult, is received from a lineal ascendant of the adoptive parents.

- iv. If the other party is sentenced to major imprisonment for a term of one year, or more. れ刑一方(四)
たに年か
る處以重他
させ上禁の
さらの綱一
- v. If the adopted person commits a grave fault of a nature to disgrace the family name, or ruin the family property. き失き家名(五)
あ重座を
り大を潰養
たふ傾し子
るるく又に
さ逃へは家
- vi. If the adopted person disappears, and does not return for a period of three years, or more. せ年逃(六)
さ以上亡
る上し養
さ復て子
き歸三つ
- vii. If it is uncertain for a period of three years, or more, whether the adopted person is alive or dead. ら以生(七)
さ上死
る方か養
さ明三子
きさ年
- viii. If the other party has cruelly treated, or gravely insulted, his, or her, own lineal ascendant. へ大爲に自(八)
たふし對己
るる又しの
さ侮はて直他
き辱之虐の
さをに待尊一
加重を屬方
- ix. If, in cases of *muko-yōshi** adoption, divorce takes place, or if, in cases where the adopted person has married a woman of the adoptive family, divorce, or an annulment of marriage, takes place. 取於婚(九)
消て姻きに
あ離を又於婿
り婚爲はて養
た若し養離子
るくた子縁の
さばるわあ縁
き婚場家り組
別合女たの
のにさる場

867.

十六百八第
條七

So long as the adopted person is under fifteen years of age a person who has the right to consent to 縁罷せ年滿養
組はさに十子
に其る達五か

* See Note on page 25.

こ提條者を付 his, or her, adoption may bring an action for the
 な出のよ有承 dissolution of the adoption.
 得す訴りす諾
 るを離る權

之條の三第
 な規條八
 準場定第百
 用合は二四
 すに前項十

The provisions of the second clause of Article 843
 extend to cases coming under the preceding clause.

十六百八第
 條八

868.

な怒は事至第
 提し其者第八
 起た直の六百
 する系一號六
 ると尊方の十六
 べき屬場合六
 べきは他台條
 な離行のに第一
 得縁爲一於第
 すのを方て號
 訴宥又當乃

If, in cases coming under any of the sub-headings
 i. to vi., inclusive, of Article 866, one of the parties
 has condoned the act of the other party, or that of
 his, or her, lineal ascendant, an action for dissolution
 of adoption cannot be brought.

十六百八第
 條九

869.

起さの者號第
 すき行のの八
 るは爲一場百
 こ離に方合六
 な縁同々に十
 なの意他於六
 得訴しので條
 すなた一當第
 提る方事四

If, in cases coming under sub-heading iv. of Article
 866, one of the parties consents to the act of the
 other party, an action for dissolution of adoption
 cannot be brought.

提理同れに第
 起由一た揚八
 すさのるけ百
 るし事者た六
 こて由はる十
 離あ他刑六
 な縁るのに條
 得のこ一處第
 す訴さ方せ四
 ななにら號

A person who has received the criminal sentence
 mentioned in sub-heading iv. of Article 866 cannot
 bring an action for dissolution of adoption on the
 ground that the other party has received a criminal
 sentence.

條十七百八第

870.

及第號條六第
 ひ五乃第十八
 等號至一六百

An action for dissolution of adoption based on
 any of the grounds mentioned in sub-headings i. to

v., inclusive, and in sub-heading viii. of Article 866, cannot be brought after one year has elapsed since the person having the right to bring it knew of the fact which constituted the reason for dissolution. It is the same after ten years have elapsed since the fact occurred.

年こ年原提入
なを因起號
經を經たるの
過得過る事
しすし事權由
た其た實利に
る事るなを因
後實後知有る
亦發はりす離
同生之たる緣
しのはる者の
時提時が訴
より起り離は
りすり縁之
、十の一のな

871.

十七百八第
條一

An action for dissolution of adoption based on the ground mentioned in sub-heading vi. of Article 866 cannot be brought after one year has elapsed since the adoptive parent knew of the return of the adopted person. It is the same after ten years have elapsed since the return of the adopted person.

十十一歸因第
年る年しる入
なをた離自
經さ經る縁六
過を過この十
し得しと訴六
たすたなは條
る其る知養第
後復後り親六
亦歸はたが號
同の之る養の
し時を時子事
よ提よの由
り起り復に

872.

十七百八第
條二

An action for dissolution of adoption based on the ground mentioned in sub-heading vii. of Article 866 cannot be brought after the question whether the adopted person is alive or dead has been set at rest.

すた生離七第
るる死縁號八
こ後かのの百
さば分訴事六
な之明は由十
得をさ養に六
す提爲子因條
起りの第

873.

十七百八第
條三

If in cases coming under sub-heading ix. of Article 866 an application has been made for divorce, or for

て合號條六第
離にの第十八
縁於場九六百

この附るの又
 こ請帯さ請は
 な求しき求は
 得なてはあ姻
 爲離之り取
 す縁に消

annulment of marriage, an application for dissolution of adoption may be joined to it.

は縁りは因第
 之請た婚る八
 を求る姻離百
 提の後の縁六
 起備六取の十
 す利ヶ消訴六
 る月ありは條
 こ抛なり當第
 こ棄經る者九
 得たしこか號
 す又こ離事
 き離知又に

An action for dissolution of adoption based on the ground mentioned in sub-heading ix. of Article 866 cannot be brought if six months have elapsed since the party concerned became aware of the divorce, or the annulment of marriage, or if the right of applying for a dissolution of adoption has been relinquished.

十七百八第
 條四

874.

在たすなり養
 らる但爲た子
 す後隠するか
 は居る後戸
 此をさば主
 限爲な離さ
 にし得縁爲

An adopted person cannot effect a dissolution of adoption after he, or she, has become the head of the family. But after the adopted person has abdicated this rule does not apply.

十七百八第
 條五

875.

るし第し其養
 こた三身實子
 さる者分家は
 な權いなに離
 得利既回於縁
 すなをに復てに
 害取す有因
 す得但せり

By the dissolution of adoption an adopted person recovers the status which he, or she, had in his, or her, original family. But the rights already acquired by a third person cannot be injured.

十七百八第
 條六

876.

しこの養さ夫
 た婚他子爲婦
 る姻のかりか
 場な養養又養
 合爲子親は子

In cases where a husband and wife are adopted, or where an adopted person marries another person who has been adopted by the same adoptive parents;

if the wife has to leave the family in consequence of the dissolution of adoption, the husband must, at his option, effect either dissolution of adoption, or divorce.

なは選へ因に
要離婚きり於
す婚にきてて
な従はき養妻
爲ひは家の
す離夫を離
こ縁は去縁
と又其るに

CHAPTER V.

章五第

PARENTAL RIGHTS.

權親

SECTION I.

節一第

GENERAL RULES.

則總

877.

十七百八第
條七

A child is subject to the parental rights of the father in the family to which he, or she, belongs. But persons who have attained majority and earn an independent living do not come under this rule.

此立但父子
限つ獨のは
にる立親其
在成の權家
ら年生にに
す者計服在
はなする

If the father cannot be ascertained, is dead, has left the family, or is unable to exercise parental rights, the mother in the family exercises them.

母さ親を死父
之る情去亡か
なさなりし知
行き行たれ
ふはふるるさ
家みささるさ
にささきき
在能又
るはは家、

878.

十七百八第
條八

In cases where a step-father, a step-mother, or the wife of the child's father, exercises parental rights the provisions of the next Chapter are applied.

定は場親又繼
な次合權は父
準章にを嫡
用の於行母繼
す規てふか母

節二第

SECTION II.

力效の權親

EFFECT OF PARENTAL RIGHTS.

十七百八第
條九

879.

義す及年又親
務權ひのは權
を利教子母を
負を育のは行
ふ有を監未ふ
し爲護成父

A father, or mother, who exercises parental rights has the rights and duties of the custody and education of children who are minors.

條十八百八第

880.

適但なし行未
用第定たふ成
な七むる父年
妨百る權又の
け四こ所は子
す十とに母は
九を其親
條要居指權
のす所定な

A child who is a minor must establish his, or her, residence in the place appointed by the father, or mother, who exercises parental rights. But this does not preclude the application of Article 749.

十八百八第
條一

881.

得又は役未
るは親な成
こ母權出年
さのを願の
を許行す子
要可ふるか
すな父に兵

A son who is a minor must obtain the permission of his father, or mother, who exercises parental rights to his making an application for permission to serve in the army or navy.

十八百八第
條二

882.

入をし於は親
る得又て必權
るては自要か
こ之裁らな行
さを判其るふ
を懲所子範父
得成のを圍又
場詐懲内は
に可戒に母

A father, or mother, who exercises parental rights may within necessary limits administer correction to a child, or apply to a Court of law for its confinement in a house of correction.

The period of a child's confinement in a house of correction is determined by a Court of law within a limit of six months. But this period may at any time be reduced on the application of the father, or mother.

す固期は子
るり間て六
こ何は載个懲
こ時父判月戒
なに又所以場
得ては之下に
も母なの入
之の定範る
な請む圍る
短求但内期
縮に此に間

883.

十八百八第
條三

A child who is a minor cannot engage in any calling without obtaining the permission of the father, or mother, who exercises parental rights.

むれな又親未
こは得は權成
さ職る母を年
な業にの行の
得な非許ふ子
す營さ可父は

The father, or mother, may in cases coming under the second clause of Article 6 cancel, or restrict, the permission mentioned in the preceding clause.

ふは許に條父
さ之可於第又
ななをて二ば
得制取は項母
限消前のほ
すし項場第
る又の合六

884.

十八百八第
條四

The property of a child who is a minor is managed, and the child is represented in legal acts concerning such property by the father, or mother, who exercises parental rights. But in cases where an obligation having for its subject an act on the part of the child will be created the latter's consent must be obtained.

の務す子親
同を但るの權
意生其法財な
なす子律產行
得への行なふ
るき行為管父
こ場爲に理又
さ合を付しは
なを目き又母
要於的其其は
すて子子財未
はすな產成
本る代に年
人債表關の

885.

十八百八第
條五

In cases where a child who is a minor has to manage the property of the consort the father, or

理產者其の未
すなの配子成
へ管財偶の年

なり母行てき
管て之ふは場
理其に父親合
す財代又權に
産ははを於

mother, who exercises parental rights manages the property on behalf of the child.

十八百八第
條六

886.

意子けの親
なすのた子權
得る之るにな
るには行代行
こは爲はふ母
と親すなり母
な族こ爲てか
す曾さし左未
すのに又に成
同同は掲年

For the performance of the following acts, on behalf of a child who is a minor by a mother who exercises parental rights, or for the giving of consent by her to the performance of such acts by the child, the consent of the family council must be obtained :—

とすな營(一)
こ爲業

i. The conduct of a business.

と爲保財(二)
す證又
こなは借

ii. The borrowing of money, and suretyship.

な的利産は(三)
爲さのに重
すす喪關要不
こ行失する動
と行なるる産
爲目權幼又

iii. The performance of an act having for its object the extinction of rights concerning immoveables, or important moveables.

約解産は(四)
な又に重
爲は關要不
す仲すな動
こ裁るる産
と契和動又

iv. The making of a contract for an amicable arrangement, or an arbitration, concerning immoveables, or important moveables.

さる棄を相(五)
こす抛權

v. The renunciation of succession.

る拒遺與(六)
こ絶贈又
とすなは贈

vi. The rejection of donations or bequests.

887.

十八百八第
條七

Acts performed, or acts for the performance of which consent has been given by a mother who exercises parental rights, in contravention of the provisions of the preceding Article may be cancelled by the child, or by his, or her, legal representative. In these cases the provisions of Article 19 shall be applied.

定此人の遠親
な場なる反權
を合於行しな
用にて爲て行
す於之は爲ふ
てを子し母
は取又又か
第消はは前
十す其同條
九み注意の
條を定規
のな代與定
規得理へに

The provisions of the preceding clause do not preclude the application of Articles 121-6, inclusive.

けの百一は前
す適二條第項
用十乃百の
な六至二規
妨條第十定

888.

十八百八第
條八

In the case of acts in regard to which the interests of a father, or mother, who exercises parental rights conflict with those of a child who is a minor, the father, or mother, in question must apply to the family council for the selection of a special representative on behalf of the child.

會人はる未親
にを其行成權
請選子爲年を
求任のにの行
すす爲付子ふ
るめてさ父
こには利又
さの特父益は
なを別又相母
要親代は反さ
す族理母す其

If a father, or mother, exercises parental rights over several children, in the case of acts in regard to which the interests of one of the children conflict with those of the others the provisions of the preceding clause shall be applied on behalf of the child in question.

を其益てし父
準一相其て又
用方反一親は
すのす人權母
爲るさな
め行他行數
前爲のふ人
項に子場の
の付さ合子
規てのに
定は利於對

十八百八第
條九

889.

と管のめは親
な理注に母權
要備意すはを
すななる自行
行以と己ふ
ふて同の父
こ其一爲又

A father, or mother, who exercises parental rights must manage the property of a child who is a minor with the same care as when acting on his, or her, own behalf.

限失ふ付得母
になさてては
在かかも親
らり得其し族
すしす責た會
と但なるの
き母免行同
ばにる爲意
此過るにな

A mother cannot evade responsibility even for acts which she has performed with the consent of the family council. But cases where no fault has occurred on her part do not come under this rule.

條十九百八第

890.

殺費但其な子
し用其管行つ
たは子理の成
る具のた年
の養計るに
の財育算交達
と産及な又し
看のひ爲はた
做收財す母る
す益産ふはさ
さのさ遅きは
之管な滞は
を理要な親
相のすく權

When a child has attained majority, the father, or mother, who exercises parental rights must without delay furnish an account of management. But the expenses of the child's education, and of the management of the property, shall be regarded as a set-off against the profit derived from the property.

十九百八第
條一

891.

す産表第に前
示三て條
付し者子但
てたかに書
はる反財の
さの對産親
なきのな定
適は意與は
用は思ふ無
せ對なる價

If a third person who has made a free gift of property to a child expresses an intention contrary to the proviso attached to the preceding Article, the proviso shall not be applied in regard to such property.

892.

十九百八第
條二

If a third person who has made a free gift of property to a child expresses an intention to the effect that it is not to be managed by the father, or mother, who exercises parental rights, such property shall be regarded as not being subject to the management of the parent in question.

屬其母第無
せ財産を三償
さる思に者
るはなてか
も父表之親子
の又示を權に
さはし管を財
す母た理行産
のるせふを
管さし父與
理きめ又ふ
にはさる

If in a case coming under the preceding clause the third person in question has not appointed a manager, a Court of law shall on the application of the child, of a relative of the latter, or of a public prosecutor, select a manager.

管檢所せ三前
理事はさ者項
者の子りかの
を請し管場
選求其さ理合
任に親さ者に
す因族はを於
り又裁指て
其は判定第

The same course shall be followed if the third person does not appoint a fresh manager in cases where although he has appointed a manager the latter's authority has ceased, or it has become necessary to appoint another person in his place.

指て任權し第
定第す限さ三
せ三るいさ者
さ者必消さか
るか要滅雖管
さ更あしも理
きなる又其者
亦管場は管を
同理合之理指
し者にな者定
な於改のせ

The provisions of Articles 27-9, inclusive, extend to cases coming under the two preceding clauses.

準場は九乃第
用合前條至二
すに二の第十
之項規二七
なの定十條

893.

十九百八第
條三

The provisions of Articles 654 and 655 extend to cases where a father, or mother, manages the property of a child, and to cases coming under the preceding Article.

な及財定第第
準ひ産は六六
用前を父百百
す條管又五五
の理は十十
場す母五四
合るか條條
に場子の及
之合の規ひ

十九百八第
條四

794.

きよるに又親
はり債財は權
時五權產親を
數年はの族行
に間其管會ひ
因之管理にさ
りな理にさる
て行權付其父
消は消て子若
滅さ滅生さく
するのしのは
と時た間母

If a right of action in respect of the management of property arising between a father, or mother, who has exercised parental rights, or a member of the family council, and a child is not exercised within five years from the date of the cessation of the right of management, it ceases by prescription.

時法かさ間子
よ定成きにの
り代年は管未
之理に前理た
な入違債權成
起かしの年
算就又期満に
す賦は間滅達
し後はしせ
た任其たさ
るの子るる

If the right of management ceases while the child is still a minor, the period mentioned in the preceding clause is reckoned from the date on which the child attains majority, or the legal representative who succeeds to the management enters upon his duties.

十九百八第
條五

895.

ふ及は成又親
ひり年は權
親ての母を
權戸子は行
を主に其ふ
行權代未父

A father, or mother, who exercises parental rights exercises on behalf of a child who is a minor both the latter's rights as head of a family, and the latter's parental rights.

節三第

SECTION III.

失喪の權親

LOSS OF PARENTAL RIGHTS.

十九百八第
條六

896.

くは用權母父
不著しなひ又
行し又濫親は

If a father, or mother, abuses his, or her, parental rights, or is guilty of flagrant misconduct, a Court of

law may on the application of a relative of the child, or of a public prosecutor, decree the loss of parental rights.

こ裏に又判斷
さ失因は所
ななり檢に
得宜其事子
告親ののき
す權請親は
るの求族裁

897.

十九百八第
條七

If a child's property is endangered by the mismanagement of a father, or mother, who exercises parental rights, a Court of law may on the application of a relative of the child, or of a public prosecutor, decree the loss of the right of management.

告にはなの親
す因子危失權
るりのく當な
其親しに行
こ管族た因ふ
な理又るり父
得權はさて又
の檢き其は
裏事は子母
失の裁のか
な請判財管
宜求所產理

If the order mentioned in the preceding clause has been issued against a father, the right of management is exercised by the mother who is in the family.

なに管た宣父
行在理る告か
ふる權さな前
母は受項
之家はけの

898.

十九百八第
條八

If the reasons mentioned in the two preceding Articles cease to exist, a Court of law may, on the application of the person concerned, or of a relative of the latter, cancel the order decreeing the loss of the rights in question.

みに又き原前
取因はは因二
消り其裁の條
す失親判止に
こ權族亦み定
さののはため
な宣請本るた
得告求人さる

899.

十九百八第
條九

A mother who exercises parental rights may decline the management of property.

こを産ふ親
さ辭の母權
なす管はな
得る理財行

章六第

CHAPTER VI.

見後

GUARDIANSHIP.

節一第

SECTION I.

始開の見後

COMMENCEMENT OF GUARDIANSHIP.

條百九第

900.

すて合左後
開にの見
始於場は

Guardianship commences in the following cases:—

さっけふ對(一)
る管親者し
こ理能な(未
き權なき親成
を行さ權年
有ふきな者
せ者又行に

i. If there is no one who exercises parental rights over a minor, or if the person exercising parental rights does not possess the right of management of property.

さ宣(二)
き告あ禁
治
た
産
るの

ii. If a person who has attained majority is interdicted by a judicial order from the management of his, or her, property.

SECTION II.

節二第

THE FUNCTION OF GUARDIANSHIP.

歸懐の見後

SUB-SECTION I.

款一第

GUARDIANS.

人見後

901.

條一百九第

A person who is the last to exercise parental rights over a minor may appoint a guardian by will. But this rule does not apply to persons who do not possess the right of management.

は管指遺後未
此理定言に成
限權すを即年
になるし權者
に有てな
らせこ後行對
すさを見ふし
る得人者て
者但なは最

If a mother during the lifetime of the father who exercises parental rights declines beforehand to undertake the management of the property, she may appoint a guardian in accordance with the provisions of the preceding clause.

定にきのに親
な依は管於權
爲り父理てな
すてはな母行
こ後前辭かふ
こ見項し係父
な人のための
得の親る財生
權定と産前

902.

條二百九第

A father, or mother, who exercises parental rights becomes the guardian of a person who is interdicted from the management of his, or her, property.

のは親
後母權
見はな
人禁行
と治ふ
爲産父
る者又

妻が禁治產の宣告
を受けたるときは
夫其後見人と爲る
夫か後見人たらさ
るときは前項の規
定に依る

If a wife is interdicted by a judicial order from managing her property, her husband becomes her guardian. If the husband cannot be a guardian, the provisions of the preceding clause are followed.

夫が禁治產の宣告を受けたるときは妻其後見人たる妻の後見人たる者又は夫が未成年者なるときは第一項の規定に依る

If a husband is interdicted by a judicial order from managing his property, his wife becomes his guardian. If the wife cannot be a guardian, or if the husband is still a minor, the provisions of the first clause of this Article are followed.

條三百九第

903.

前二條の規定に依りて家族の後見人たる者あらざるときは戸主其後見人と爲る

If there is nobody who can, in accordance with the provisions of the two preceding Articles, become the guardian of a member of a family, the head of the family becomes the guardian.

第四百九條

904.

前三條の規定に依りて後見人たる者あらざることは後見人は親族會之を選任す

If there is nobody who can, in accordance with the provisions of the three preceding Articles, become guardian, a guardian is selected by the family council.

條五百九第

905.

母の財産管理を、父が去り又は戸主

親権を行つた

父若くは母が

If it becomes necessary to appoint a guardian in consequence of a mother declining the management of the property, of a guardian declining to act, of a father, or mother, who exercises parental rights leaving

the family, or in consequence of the abdication of the head of the family, the father, mother, or guardian in question must without delay apply to a Court of law for the summoning of a family council.

請集見た見い
求し人る人隣
す又はさな居
るは遅き運を
其滞は仕爲
こと招なくす
な集父する
要な親、必る
す裁族母要に
判會又な因
所なは生り
に招後し後

906.

條六百九第

One person only can be guardian.

すさたは後
なる一見
要こ人入

907.

條七百九第

A guardian, if not a woman, cannot decline to act except on the following grounds:—

なをさ事を後
得辭れ由除見
すすはあく人
る其る外は
こ任に左婦
と務非の女

- i. Actual service as a *gun-jin** or *gun-zoku*.†
るにて人(二)
こ服習さ(二)
とす役し軍
- ii. Engagement in public business outside of the town, or rural district, in which the ward's domicile is situated.
る務外人(二)
こにに父の(二)
と從は住被
事て郡所後
す公以の見
- iii. If, in cases where any of the grounds mentioned in this or the next Article existed
者る見先己(三)
にへ人によ(三)
付きた後り自

* The term *gun-jin* includes in the army all combatant and non-combatant officers, non-commissioned officer, and privates; and in the navy all combatant and non-combatant officers, petty officers, and seamen.

† The term *gun-zoku* includes all civil officials and other persons employed in the army or navy who have either taken the oath of allegiance, or have signified their submission to the rules regulating their employment by the formality known as *Toku-hō* ("the reading of the law").

る事場事條き
こ合由に本
減消の掲條
た其しる次

ひさ年(四)
戸但以上禁
主能後治
は此者見産
限に直為者
在系し付
す血ては
族るは
及こト

由の正此(五)
事當他

條八百九第

得こ人はく左
すきた後るに
なる見者掲

者年成未(一)

治者(二)
産及(二)
者ひ禁
準自
禁産

止場(三)
公者(三)
權及割
者ひ奪
停公

又法せに(四)
に定ら於裁
你代れて判
佐理た免所
人入る黜所

者産破(五)

in regard to a person who ought to be guardian before him, such ground, or grounds, have ceased to exist.

iv. Having acted for ten years, or more, as the guardian of a person interdicted from the management of his, or her, property. But this rule does not apply to a consort, a lineal blood relative, or the head of a family.

v. Other just grounds.

908.

The following persons cannot be guardians:—

i. A minor.

ii. A person interdicted, or one who is treated as a person interdicted, from the management of his, or her, property.

iii. A person who has been deprived of his, or her, public rights, or a person whose public rights have been suspended.

iv. A legal representative, or curator, who has been dismissed from his, or her, post by a Court of law.

v. A bankrupt.

- vi. A person who is instituting, or has instituted, a civil action against the ward, or such person's consort, or lineal blood relative. 並者し對(大)に及又し被直ひはて被系其爲訟後血配し既見族偶たな人者る爲に
- vii. A person who has gone away and cannot be traced. るれの行(七)者さ知方
- viii. A person whose unfitness for the duties of guardian, or improper conduct, or flagrant misconduct, has been established by a Court of law. り著不堪て(八)さし正へ後認きのさ見裁め不行るの判た行爲事任所る跡又跡務に者あはに於

909.

條九百九第

The preceding seven Articles extend to curators. すな人はの前準に保規七用之佐定條

If the interests of a curator or of the person acting for him, conflict with those of the person interdicted from the management of his, or her, property, the curator must apply to the family council for the appointment of a provisional curator. すのは益者保る選保用さ佐こ任佐反準人さな人す禁又さな親はる治は要族臨行産其す會時爲者代に保にさ表請佐付のす求人て利る

款二第

SUB-SECTION II.

人督監見後

SUPERINTENDENTS OF GUARDIANSHIP.

條十百九第

910.

こ人以るす後
 なて者る見
 を指後はこ人
 得定見遺さな
 す監言を指
 る督を得定

A person who is able to appoint a guardian may
 by will appoint a superintendent of guardianship.

條一十百九第

911.

族こ判は人前
 會はな事なきの
 其要に請務さき
 後す求に著はに
 見若し後手法依
 人なし見す定り
 なに監る後て
 違督前見指
 する反人親入定
 こたを族又し
 な選會はた
 得さ任の指
 ばせ招定後
 親る集後見
 親る裁人督

If a superintendent of guardianship is not ap-
 pointed in accordance with the provisions of the
 preceding Article, the legal guardian, or the ap-
 pointed guardian, must before proceeding to conduct
 the business of the guardianship apply to a Court of
 law for the summoning of a family council, and cause
 a superintendent of guardianship to be selected. If
 this course is not followed, the family council may
 dismiss the guardian.

る督直し後親
 こ人ちた見族
 なをにる人會
 な選後さな
 要任見き選於
 すす監は任て

If a family council selects a guardian, it must
 at once select a superintendent of guardianship.

條二十百九第

. 912.

滞後た督の後
 な見る人後見
 く人さの後人
 親はき缺見就
 族選はけ監顧

Should the post of superintendent of guardianship
 become vacant after the guardian has entered upon
 his duties, the latter must without delay summon

the family council, and cause a superintendent of guardianship to be selected. In these cases the provisions of the first clause of the preceding Article shall be applied.

規はすし監會
定前此む督を
準條場る人招
用第一こな集
す一に選し後
項於を任後
のて要せ見

913.

條三十百九第

If a guardian is changed, the family council must make a fresh selection of a superintendent of guardianship. But the previous superintendent may be re-selected.

さ監こ見る後
な督さこ監さ人
妨人な督さ人
けなを要人は
す再すを親の
選但改族更
す前選會あ
る後すばり
こ見る後た

If the new guardian is not a person selected by the family council, the superintendent of guardianship must at once summon the council and cause the fresh selection of a superintendent to be made in accordance with the provisions of the preceding clause. If he fails to take this course, he incurs joint responsibility with the guardian for the latter's acts.

爲しりな者新
に之てくに後
付に改親非見
さ選族さ人
之反な會るか
なし爲な親
連たさ招族
帶るし集會
しさむし後に
てきる前見於
其はこ項監
責後さの督選
に見を親人任
任人要定はし
すのすに選た
行者依滞る

914.

條四十百九第

The consort, lineal blood relative, brother, or sister of a guardian cannot become the superintendent of the latter's guardianship.

すたは又者後
る後は、見
こ見兄直人
さ監弟系の
な督姉血配
得人妹族偶

915.

條五十百九第

The duties of a superintendent of guardianship are as follows:—

の職督後
加務人見
し左の監

（一）
見人
監督
事務
の
後

（二）
合に
後見
人の
職務
に就
く
な
る
に
あ
る
場
合
に
於
て
は
親
族
の
一
部
を
招
集
し
て
其
中
に
一
人
を
選
出
す
る
こ
と
を
要
す
る
こ
と
を
指
す

（三）
急迫
の
情勢
に
あ
る
場
合
に
は
上
記
の
手
続
を
と
ら
ず
に
直
接
に
後
見
人
を
選
出
す
る
こ
と
を
指
す

（四）
後見
人
の
選
出
に
あ
る
場
合
に
は
表
決
の
手
続
を
と
ら
ず
に
直
接
に
後
見
人
を
選
出
す
る
こ
と
を
指
す

- i. To superintend the business of the guardianship.
- ii. In cases where a vacancy occurs in the post of guardian to expedite the succeeding guardian's entrance upon his duties, and, if there is no succeeding guardian, to summon the family council, and cause it to appoint a successor to the post.
- iii. To take the necessary steps in cases of urgency.
- iv. To represent the ward in the case of acts in regard to which the interests of the guardian, or those of the person who represents him, conflict with those of the ward.

第九百六十六條

916.

第九百六十六條
第八條
後見人
の職務
に就く
に
あ
る
場
合
に
は
上
記
の
手
続
を
と
ら
ず
に
直
接
に
後
見
人
を
選
出
す
る
こ
と
を
指
す

The provisions of Articles 644, 907 and 908 extend to superintendents of guardianship.

SECTION III.

節三第

THE BUSINESS OF GUARDIANSHIP.

後見の事務

917.

第九百七十七條

A guardian must without delay proceed to make an examination of the ward's property, and must within one month finish such examination, and prepare a list. But this period may be extended by the family council.

伸此錄内の後
長期に財見
すは調其産人
るは製調の
こ親す調潤
さ族るを査滯
を會に終に
得にさり著
於なり手被
て要且し後
之其一見
を但日月人

The examination of the property and the preparation of the list have no validity unless they take place in the presence of the superintendent of guardianship.

效す會後其財
なに見目産
し非以銀の
さて督の調
之之人調査
はなの製及
其爲立はひ

If the guardian does not prepare the list in accordance with the provisions of the two preceding clauses, the family council may dismiss him from his post.

す族産の後
る會の規見
こはる目定人
さ之さ録に
ななきを從前
得免は調ひ二
親親製財項

918.

第九百八十八條

Until the preparation of the list is finished a guardian has authority to perform only such acts as are urgently necessary. But this limitation of authority cannot be set up against a third person who has acted in good faith.

る善權要終後
こ意限あは見
さのなるる人
な第有行まは
得三す爲て日
す者但のは録
之に之急の
對なを迫調
抗以爲の製
すてす必な

條九十百九第

919.

こ後査をし後
こ見に債權人
な監督する
要するはし
にるはし後
申前財又見
出に産は人
つ之の債に
るな調務對

If a guardian has a right of action against or is indebted to the ward, he must before proceeding to examine the ward's property inform the superintendent of guardianship of the fact.

權さり有人後
なるてすに見
失ふ之を對人
なきこし
は申さ債被
其出な權後
債て知を見

If a guardian knowing that he has a right of action against the ward does not report the fact, he loses his right of action.

こ其まを對後
こ後る知し見
な見さり債人
得人きて務か
なは之を被
免親を責後
黜族申ふ見
す會出こ人
るはてに

If a guardian knowing that he is indebted to the ward does not report the fact, the family council may dismiss him from his post.

條十二百九第

920.

用る財被後前
す場産後見三
合な見人條
に取人就の
之得て職規
なし包の定
準た括後

The provisions of the preceding three Articles extend to cases where the ward has acquired property by universal succession after the appointment of the guardian.

十二百九第
條一

921.

權め第第第未
なた八八八成
行る百百百年
ふ事八八七者
父項十十の
又に五三九後
は付條條條見
母きに及乃人
と親定ひ至は

The guardian of a minor has the same rights and duties in regard to the points mentioned in Articles 879-83, inclusive, and in Article 885, as a father, or mother, who exercises parental rights. But he must obtain the consent of the family council for changing

the method of education or the residence fixed by the father, or mother, who exercised parental rights, for placing the minor in a house of correction, for giving permission to the minor to engage in business, or for cancelling, or restricting, such permission.

族を及ぶ同
會にひ父一
の消入居又
同しれ所は
意又、な母
なは禁絶の
得之業更定
るなをしめ
こ限可未る
なすし成教
要る者育親
すに其なの
は許戀方な
親可戒法行

922.

十二百九第
條二

The guardian of a person interdicted from the management of his, or her, property must give attention to the medical treatment and nursing of such person in accordance with the latter's means.

る療資人禁
養力は治
こ着に禁産
み護應治者
要なし産の
すて者後
む其の見

The guardian determines with the consent of the family council the question of placing a person interdicted from the management of his, or her, property in a lunatic asylum, or placing him, or her, under restraint in a private house.

人會置に禁
之のす入治
な同るれ者
定意と又者
むな否はを
得さ私瘋
ては宅願
後親に病
見族監院

923.

十二百九第
條三

A guardian manages the property of the ward, and represents the latter in the case of legal acts concerning it.

代付すし人後
表きる又の見
す被法其財人
後律財産は
見行産な被
人爲に管後
なに理見

The proviso attached to Article 884 extends to cases coming under the preceding clause.

な場は書十第
準合前の四八
用に項規條百
す之の定但八

十二百九第
條四

924.

の療後て後
豫爲養見親見
定め看人族人
する毎親の會は
る年及生の其
こ費び活同就
こ財意職
なへ産教の
要きの育得初
す金管又にて
願理は被於

A guardian must at the outset of his appointment fix beforehand, with the consent of the family council, the amount to be expended each year for the subsistence, education, medical treatment, and nursing of the ward, and for the management of the latter's property.

を於已を同前
支てむ變更項
出豫こ更なの
や定さする豫
額なるる定
こ得こに額
こ超ささ非は
なゆるなる親
妨る擲得れ族
け金合すは會
す額に但之の

The fixed amount mentioned in the preceding clause cannot be altered without the consent of the family council. But in cases where it is unavoidable a sum in excess of this amount may be expended.

十二百九第
條五

925.

さのふ産力親
配る中其族
は偶こよ他會
此者こりのは
限、か相事
に直得當情見
在系但のに人
ら血後報依及
す族見酬りひ
又人を被被
ばか後後後
戸被見見見
主後人人人
な見にのの
る人與財資

The family council may in accordance with the means of the guardian and of the ward, and in accordance with other circumstances, grant suitable remuneration to the guardian out of the ward's property. But cases where the guardian is the ward's consort, or lineal blood relative, or is the head of the family, do not come under this rule.

十二百九第
條六

926.

け百す産同後
す六る財意見
條こ管な人
のこ理得は
適な者て親
用得な有族
な但使給會
妨第用のの

A guardian may with the consent of the family council employ a salaried manager for the property. But this does not preclude the application of Article 106.

927.

十二百九第
條七

The family council must at the outset of the appointment of the guardian fix what amount the money received by the latter on behalf of the ward shall reach before he is required to deposit it.

なせる見初親
定は金人に族
む之該の於會
るなつてば
寄何め後後
こ託程に見見
なすの受人人
要へ額取人就
すきにり被職
い達た後の

If a guardian, in spite of the fact that the money received by him on behalf of the ward has reached the amount fixed by the family council, does not deposit it within a reasonable period, he must pay interest at the rate fixed by law.

息託も會に後
なせ相の受見
拂さる當定取人
ふるのめりか
こさ期たた被
こさ間るる後
なは内額並見
要ににに錢人
す法之達かの
定なす親爲
利寄る族め

The place where the money is to be deposited is determined by the guardian with the consent of the family council.

定後同はす金
む見意親へ錢
人な族きな
之得會場寄
なての所託

928.

十二百九第
條八

An appointed, or selected, guardian must at least once a year make a report to the family council on the condition of the ward's property.

こ親人く定指
さ族のさ後定
な會財も見後
要に産一人見
す母の回ば人
告狀被毎及
す況後年ひ
るを見少選

929.

十二百九第
條九

A guardian must obtain the sanction of the family council to his conducting business, or performing any of the acts specified in the first clause of Article 12, on behalf of the ward, or to his giving consent to the conduct of business, or the performance of

すはけ第代後
こ未た十は見
こ成る二り人
に年行條てか
同者爲第被
意のを一業後
す之爲項若見
るなしにく人
に爲又掲はに

すはのな意は such acts by a minor. But this rule does not apply
 此領要を親 to the receipt of capital.
 限收す得族
 にに阻る會
 在付元この
 らて本と同

條十三百九第

930.

條を被のは後 If a guardian acquires by transfer the property of
 の得後權被見 the ward, or the rights of a third person against the
 規此見利後人 latter, the ward may cancel the transaction. In these
 定場人を見か cases the provisions of Article 19 shall be applied.
 な合は讓入被
 準に之受に後
 用於なけ對見
 すて取るす人
 は消るるの財
 第十き三產
 九は者父

けの百一は前 The provisions of the preceding clause do not pre-
 す適二條第項 clude the application of Articles 121-6, inclusive.
 用十乃百の規
 な六至二定
 如條第十

十三百九第
 條一

931.

こ産被る會後 A guardian cannot without the consent of the family
 さを後にの見 council hire the ward's property.
 な貸見非同人
 得借入さ意は
 すすのれを親
 る財は得族

十三百九第
 條二

932.

る人人時す後 If a guardian neglects his duties altogether, the
 のの管る見 family council may select a provisional manager, and
 こさ財責理と人 cause him to manage the ward's property on the guardian's
 な産任人さか responsibility.
 得なをなは其
 管以選規任
 理て任族務
 せ被し會を
 し後後は職
 む見見臨く

十三百九第
 條三

933.

見後は會族親 The family council may cause the guardian to furnish

suitable security for the management and return of the ward's property.

む擔に管見人
る保付理人な
こなき及のし
さ供相ひ財て
みせ當返産被
得しの還の後

934.

十三百九第
條四

If the ward is the head of a family, the guardian exercises on his, or her, behalf the ward's rights as such. But he must obtain the sanction of the family council for removing the name of a member of the family from the family register, for forbidding his, or her, return to the family register, or for consenting to the establishment by him of a fresh branch of the family, or to his resuscitation of a family which has died out.

すすしに被
る若、代後
にく其は見
は復り人
親廢籍てか
族絶な其戸
會家拒權主
のなみ利な
意興は行さ
か得る族祖
るこか家族
さに分族見
さに家を人
な同を離は
要意爲籍之

A guardian exercises parental rights for a minor. But the provisions of Articles 917-21, inclusive, and those of the preceding ten Articles shall be applied.

規一條行に後
定條乃ふ代見
を及至祖は人
準ひ第第りは
用前九九て未
す十百百親成
條二十十權年
の十七を者

935.

十三百九第
條五

In cases where the person exercising parental rights does not possess the right of management the guardian has authority only in regard to the property.

を關後る管親
有す見揚理權
する人合權を
權はにな行
限財於有ふ
の處てせ者
みにはさか

936.

十三百九第
條六

The provisions of Article 644, those of Article 四十四百六第

に條ひ十七條、887, those of the second clause of Article 889, and
 之の第九條、those of Article 892, extend to guardianship.
 な規八條、
 準定百第八
 用は九二八
 す後十項百八
 見二及八十

節四第

SECTION IV.

了終の見後

TERMINATION OF GUARDIANSHIP.

十三百九第
條七

937.

之但の續る後 When the duties of a guardian have ended, he,
 な此計人さ見 or his successors, must within two months prepare
 伸期算はき人 an account of management. But this period may be
 長間な二はの extended by the family council.
 すは爲箇後任
 る親す月見務
 こ族こ内人か
 こそ會さにと終
 なにを其は了
 得於要管其し
 てす理相た

十三百九第
條八

938.

すて立監算後 The guardian's account is prepared in the pre-
 之會督は見 sence of the superintendent of guardianship.
 なな人後の
 爲以の見計

すなはてり後 In cases where a change of guardians has oc-
 得親はて見 curred the guardian's account must be approved by
 る族後る人 the family council.
 こ會見場の
 さの合更
 な認計に送
 要可算於あ

十三百九第
條九

939.

と了のた成未 A minor after attaining majority may cancel a
 後前計る年成 contract made by him, or her, before the closing of
 見に算後に年 the account of guardianship with the guardian, or
 人其の後達者
 又者終見しか

with the latter's successor. The same rule applies to unilateral acts performed by the minor *vis-à-vis* the guardian or the latter's successors.

獨人其てしは
行に者之た相
爲對かある相
亦し後取契續
同て見消約人
し爲人すはさ
し又こ其の
たはさ者間
る相なにに
單續得於爲

The provisions of Article 19, and those of Articles 121-6, inclusive, extend to cases coming under the previous clause.

之前六乃第第
な項條至百十
準のの第二九
用攝規百十條
す合定二一及
には十條ひ

940.

條十四百九第

From the date of the closing of the account of guardianship interest must be paid on money which is to be repaid by the guardian to the ward, or by the ward to the guardian.

附算へ見還後
す終き人す見
る了金かへ人
この額後きか
こ時に見金被
なより人額後
要り後に及見
す利見返ひ人
息の還被に
な計す後返

If a guardian spends on his own behalf money which belongs to the ward, he must pay interest on it from the date on which it was spent. Moreover if loss has been incurred, he is bound to give compensation.

き要之る後後
はすにこ見見
其尙利き人々
賠償息はのか
償損を其金自
の害附消錢己
責あす費をの
任たりの時費め
するこよりしに
こをりた被

941.

十四百九第
條一

The provisions of Articles 654 and 655 extend to guardianship.

準後條六四第
用見の百條六
すに規五及百
之定十ひ五
なは五第十

十四百九第
條二

942.

價後被監た第
權見後督るハ
にに見人時百
之關人又效九
をしとほは十
準ての親後四
用生間族見條
すしに會人に
た於員後定
るてと見め

The prescription established by Article 894 extends to claims concerning the guardianship which arise between a guardian, a superintendent of guardianship, or the family council, and a ward.

時ににに百前
よ於取依三項
りて消り十の
起はして九時
算其た法條效
す取る律のは
消場行規第
の合爲定九

The prescription mentioned in the preceding clause shall in cases where a legal act has been cancelled in accordance with the provisions of Article 939 be reckoned from the date of such cancellation.

十四百九第
條三

943.

之治規定前
を産族は條
準者會保第
用さ員佐一
すのさ人頂
間準又の
に禁は規

The provisions of the first clause of the preceding Article apply as between a curator, or a member of a family council, and a person treated as one who is interdicted from the management of his property.

章七第

CHAPTER VII.

會族親

FAMILY COUNCILS.

十四百九第
條四

944.

本を協族の本
人要合會規法
すにに定其
戸る於開に他
主事てく依の
件會へり法
親の議き親令

In cases where a meeting of a family council must be held in accordance with the provisions of this Code, or those of other laws or regulations, the council is summoned by a Court of law or the

application of the person chiefly concerned in the case which calls for deliberation, or the head of the family, or a relative, or the guardian, or the superintendent of guardianship, or the curator, or a public prosecutor, or an interested party.

す因利人族
り害保佐後
裁隔係人々
判係人々
所之檢後
之請事見
な請求又監
招求又監
某には督

945.

十四百九第
條五

The family council consists of three or more persons, and is chosen by a Court of law from among the relatives and the person chiefly concerned, or some person connected with the latter's family.

な中に他親
撰と錄本上族
定り故人さ會
す裁あ又し員
な判るは親は
所者其族三
之の家其人

A person who is able to appoint a guardian may by will choose the members of the family council.

さなを以るす後
な選て者る見
得定親はこ人
す族違なを指
る會言を指
こ員を得定

946.

十四百九第
條六

A person living in a distant place may decline to be a member of a family council.

なと親のす遠
得な族事る隔
辭會由者の
す員あ其地
るたる他に
こる者正居
さこは當住

A guardian, a superintendent of guardianship, or a curator, cannot be a member of a family council.

する親ひ見後
こ族保監見
さ會佐督人
な員人々
得たは及後

The provisions of Article 908 extend to members of a family council.

準員は條第
用に親の九
す之族規百
な會定入

**第十四百九
條七**

947.

親族會の
議事は會
員の過半
數を以て
之を決す

Matters which form the subject of deliberation by a family council are decided by a majority.

會員は自己の利害に關する議事に付き表決の數に加はることを得す

A member of a family council cannot vote in a matter under discussion in which his own interests are concerned.

第十四百九
條八

948.

本人、月主、家に在る父母、配
偶者、本家竝に分家の月主、後
見人、後見監督人及び保佐人
は親族會に於て其意見を述べ
ることを得

The person chiefly concerned, the head of his, or her, family, the father, or mother, in the family of which the person in question is a member, his, or her, consort, the head of the main, or of a cadet, branch of the family, the guardian, superintendent of guardianship, or the curator of the person in question, may state his, or her, opinion before the family council.

親族會の招
集は前項に
掲げたる者
に之を通知
すること
を要す

Notice of the summoning of a family council must be given to the persons mentioned in the preceding clause.

第十四百九
條九

949.

無能力者の爲めに設けたる親族會は其者の無能力の止むまで繼續す此親族會は最初の招集の場合を除く外本人、其法定代理人、後見監督人、保佐人又は會員之を招集す

A family council established on behalf of a person without legal capacity continues until the legal incapacity ceases. Such council, except when it is first summoned, is convened by the person chiefly concerned, his, or her, legal representative, the superintendent of guardianship, the curator, or by a member of the council.

950.

條十五百九第

If a vacancy occurs in a family council, the members of the council must apply to a Court of law to choose a member to fill the vacancy.

こ判欲さ欲親
を所員き員族
をにのほを會
要請撰會生員
す求定員しに
すなはた於
る裁補るて

951.

十五百九第
條一

A member of a family council, or any of the persons mentioned in Article 940, may appeal to a Court of law against a decision of the council.

る不に又て親
こ服掲ほは族
をなけ第一會
を裁た九の
得判る百月央
所者四内議
によ十にに
訴り四會對
ふ其條員し

952.

十五百九第
條二

If a family council is unable to arrive at a decision, the members of the council may apply to a Court of law for a judgment to take the place of the decision of the council.

るさる會こ親
をなへ員さ族
を裁きは能會
を判裁其はか
得所判決さ決
にを議る議
請爲にさを
求す代き爲
すこははす

953.

十五百九第
條三

The provisions of Article 644 extend to members of a family council.

す之族規十第
な會定四六
準員は條百
用に親の四

第八章
の養扶
務義

十五百九第
條四

な爲に姉及直
貢す扶妹ひ系
ふ養養は兄血
務を互弟族

のににのさ夫
間在し直他婦
亦るて系一の
同者其尊一一
じさ家属方方

十五百九第
條五

順行はる貢扶
序す其場ふ養
左へ義合者の
のき務に數義
如者を於入務
しの腹てあな

者偶配(一)

屬卑系直(二)

屬尊系直(三)

主戸(四)

者け頂條(五)
たに第
る掲二前

妹姉弟兄(六)

はに屬直屬直
其於の系父系
親て間尊は卑

CHAPTER VIII.

THE DUTY OF SUPPORT.

954.

Lineal blood relatives, and brothers and sisters, are bound mutually to support one another.

It is the same between one of two married persons and the lineal ascendants of the other who are in the family of the person in question.

955.

In cases where this duty is incumbent on several persons, the order in which they must discharge it is as follows:—

i. A consort.

ii. A lineal descendant.

iii. A lineal ascendant.

iv. The head of the family.

v. The persons mentioned in the second clause of the preceding Article.

vi. Brothers and sisters.

As between lineal descendants, or lineal ascendants, the person in the nearest degree of relationship is

(六)前
五號に
掲げた
家族の
者

vi. Members of the family to which the person in question belongs other than those mentioned in the preceding five sub-headings.

第五第
九條の
規定に
準じ
る場合
は五十
五項に
前項十

The provisions of the second clause of Article 955 extend to cases coming under the previous clause.

第十五百九
第九條八

958.

同順位
の者位
に於て
は、其
の扶養
に必要
とする
者

If several persons who are entitled to support rank together in the order of priority, they may receive support in proportion to their requirements.

第九百五
十五條の
規定に
準じ
る場合
は五十
五項に
前項十

The proviso attached to Article 956 extends to cases coming under the previous clause.

第十五百九
第九條九

959.

已に扶
養に能
くする
者又は
その扶
養に依
る者
の扶養
に必要
とする
者

The duty of support exists only if the person entitled to support is unable to subsist by his, or her, own resources, or labour. It is the same if the person in question is unable to be educated out of his, or her, own resources.

兄弟姉
妹間の
扶養に
必要と
する者
の扶養
に必要
とする
者

As between brothers and sisters the duty of support exists only if the necessity to receive support has

not arisen through any fault on the part of the person to be supported. But this rule does not apply to cases where the person upon whom the duty of support is incumbent is the head of the family.

すきし者か
にて過の之
の生失受
みしにく
存た因へ
在るらき

960.

條十六百九第

The extent of support to be given is determined by the requirements of the person entitled to support, and by the position and resources of the person upon whom the duty of support is incumbent.

むに身さ養扶
依分扶權養
り及養利の
てひ義者程
之資格の度
な力者需は
定さの要扶

961.

十六百九第
條一

The person upon whom the duty of support is incumbent must at his option either take charge of and support the person entitled to support, or provide the latter with the means of subsistence without taking charge of him. But if there is just reason for doing so, a Court of law may on the application of the person entitled to support determine the method of such support.

因きる引利扶
りはこ取者養
扶裁さら義
養判をす引務
の所要し取者
方はすてりは
法扶仰生て其
か養正活之獨
定仰當のを擇
む利の資養に
る者事料ひ從
この由な又ひ
さ請あ給は扶
を求る付之養
得にさすな權

962.

十六百九第
條二

If in cases where the extent and method of support have been determined by a judicial decision a change occurs in the circumstances which constituted the ground for such decision, the person concerned

た決場り方扶
るの合て法養
事根に定かの
情據於ま判
にさてり決度
變爲其たに又
更り判る因は

得求又其きを may apply for the alteration, or annulment, of the de-
 すは判は生
 る取決當し cision in question.
 こ消の事た
 とを變れる
 な請更はと

十六百九第
 條三

963.

と分はく扶
 かす之る養
 得るな權を
 すこ處利受

The right to support cannot be disposed of.

BOOK V. SUCCESSION.

編五第
續相

CHAPTER I.

章一第

SUCCESSION TO THE HEADSHIP OF THE FAMILY.

續相督家

SECTION I.

節一第

GENERAL RULES.

則總

964.

十六百九第
條四

Succession to the headship of a family commences for the following reasons:—

- i. The death, abdication, or loss of nationality of the head of the family. て由は家
開に左督
始因の相
すり事續
失國居亡主(一)
籍又の(二)
妻は隠死戸
- ii. If the head of the family leaves it in consequence of the annulment of his marriage, or adoption. た其清子婚(一)
る家に縁姻(二)
さな因組又戸
き去りのは主
りて取養か
- iii. The marriage of the female head of a family with a man who enters her family, or the divorce of the *niū-fu*. 離又の(三)
婚は入(三)
入夫女
夫適戸
の姻主

十六百九第
條五

965.

開にの相續家
始於住續は督
すて所人被相

Succession to the headship of a family com-
mences at the domicile of the person succeeded to.

十六百九第
條六

966.

き開さ實又家
亦始るなほ督
同の時きり法續
しよりばむ定回
り時る代復
二效時理の
十に人請
年因りか求
なり五相權
經過年續は
過消間權家
た滅之侵督
すな害相
る相行の續
さ續は事人

The right of applying for the recovery of suc-
cession to the headship of a family ceases by pre-
scription if it is not exercised within five years
from the date on which the heir, or his, or her,
legal representative, became aware of the fact of
the right of succession having been injured. It is
the same if twenty years have elapsed from the
date of the commencement of the succession.

十六百九第
條七

967.

在因督り費相
らる相之用續
すも續なは財
の支其産
はの辨財に
此過す産關
限失但中
にに家よる

The expenses connected with the property of
the succession are defrayed out of such property.
But expenses caused by the fault of the heir to the
headship of a family do not come under this rule.

こ以りか用前
さてて贈は項
な之得與遺
要なとの留掲
せ支る減分け
す辨財殺權た
す産に利る
るな因者費

With regard to the expenses mentioned in the
preceding clause, a person who is entitled to the
heir's portion is not required to defray them out
of the property he, or she, has obtained by an abate-
ment of donations.

SECTION II.

節二第

THE HEIR TO THE HEADSHIP OF A FAMILY.

人續相督家

968.

十六百九第
條八

A child in the womb is as regards succession to the headship of a family considered as having been already born.

されは相胎
看た既續兒
做るにには
すも生付家
のまで督

If the child in the womb is born dead, the provisions of the preceding clause do not apply.

せはれ體に前
す之たに胎頂
なると兒の
適と生々規
用きま死定

969.

十六百九第
條九

The following persons cannot succeed to the headship of a family:—

と人家た左
かた督るに
得る相者掲
すみ續はけ

- i. A person who has received a criminal sentence for having wilfully killed, or attempted to kill, the person succeeded to,* or a person who ranks before him in the succession.

にさ死き又○
處んに先は○
せさ致順家放
らしし位督意
れた又に相に
たるは在續被
る爲死る人相
者めに者に續
刑致を付人

* This is the literal rendering of the Japanese term *hi-sō-zoku-nin*. The word "ancestor" cannot well be used with reference to *succession to the headship of a family*, because this succession arises from several causes besides death (see Art. 964). Nor would the term be always appropriate even in cases where death gives rise to succession *either to the headship of a family, or to property*, for a brother, or sister, and in certain cases even an ascendant, may succeed to the headship of a family, or to property, and the succession of a parent to the property of a child is under certain circumstances permitted by Japanese law.

り者其(二)り
し者て(二)被
さ自に(二)相
き己は(二)告
ばの非(二)人
此配の發
限偶辨又
に者別は
在若なき
らさ告
すき訴
すはせ
直さ
系又
血は
族殺
害者
但知

- ii. A person who knowing of the murder of the person succeeded to* has failed to lay a criminal information,† or to bring a criminal charge. But if the person in question cannot distinguish between right and wrong, or if the murderer is the consort, or a lineal blood relative, of the person in question, this rule does not apply.

た變之に因(三)
る更に(三)關
者取關(三)許
す取關(三)相
消取關(三)欺
こし遺相
さ又言人
なばは強
妨之為強
けなし續

- iii. A person who has by fraud, or compulsion, interfered with the making, cancellation, or alteration of a will concerning the succession by the person succeeded to.

しし續因(四)
めめ(四)に
めしに(四)許
た又關(四)相
るばす(四)欺
者之を(四)人
なを遺又
を言は強
變取言し強
更消なて追
せさ為相に

- iv. A person who has by fraud, or compulsion, caused the person succeeded to to make, cancel, or alter, a will concerning the succession.

る又造のす(五)
者ば變遺被相
藏造言被相
匿書相續
し毀を續
た滅爲人關

- v. A person who has forged, altered, destroyed, or concealed the will of the person succeeded to concerning the succession.

* *Koku-hatsu*, according to the Code of Criminal Procedure, is information of an offence (crime, or delict,) given to the Judicial or Police Authorities by any (disinterested) person who has knowledge of its commission, or has reason to believe that it has been committed.

† *Koku-so*, according to the same Code, is a criminal charge made to the Judicial or Police Authorities by a person who has suffered injury by the commission of an offence (crime, or delict,) and is therefore an interested party.

The lineal descendants of the person succeeded to who are members of his family succeed to the headship of the family in accordance with the following provisions:—

る家左た被
督のる相
相規直續
續定系人
人に卑の
さ從屬家
爲ひは族

- i. As between persons in different degrees of relationship, the nearest relative is preferred. すきり者異(一)
者てのな(二)
なは間り親
先其にた等
に近在るの
- ii. As between persons in the same degree of relationship, the male is preferred. す男在者の(一)
なりの同(二)
先て間し親
にはにき等
- iii. As between males or females in the same degree of relationship, a legitimate child is preferred. す出は同(一)
子り女し(二)
なてのき親
先は間男等
に嫡に又の
- iv. As between a legitimate child, a *sho-shi*,* and an illegitimate child who are in the same degree of relationship, the legitimate child and the *sho-shi*, even if females, come before an illegitimate child. 先雖出子出(四)
にも子の子(一)
す之及間(二)親
なひに庶等
私庶在子の
生子り及同
子はてひし
よ女は私き
りま嫡生嫡
- v. As between persons who stand in the same position in respect of the points mentioned in the preceding four sub-headings, the senior in age is preferred. 長間きけ(五)
者に相た(一)
な在る前
先りし事四
にてき項號
すは者にに
年の付掲

A person who has acquired either in accordance with the provisions of Article 836, or by adoption, the status of a legitimate child is as regards な出組り條第
取子に又の八
得た因は親百
しるり養定三
た身て子に十
る分嫡縁依六

* See page 1.

做れした付者 succession to the headship of a family considered as
 すたたるては having been born at the time of acquiring the
 る身は家 status in question.
 も時分其督
 のにを嫡相
 さ生取出續
 看ま得子に

十七百九第
條一

971.

を條百定前
 妨の三は條
 げ適十第の
 す用六七規

The provisions of the preceding Article do not preclude the application of Article 736.

十七百九第
條二

972.

にりた八第
 從第る條七
 ひ九他直の百三
 ひて自の系規
 家七直卑定十
 督十系屬に七
 相條卑は依條
 續に屬嫡り及
 人定な出てひ
 さめき子家第
 爲た場又族七
 るる合はさ百
 順に庶爲三
 序限子リ十

A lineal descendant who has become a member
 of a family in accordance with the provisions of
 Articles 737 and 738 succeeds to the headship of
 the family, in accordance with the order of priority
 laid down in Article 970, only in cases where there
 is no other lineal descendant who is a legitimate child
 or a *sho-shi*.*

十七百九第
條三

973.

は續督定の法
 其人相家推定

The right of succession of a legal presumptive†

* See page 1.

† The word "presumptive" is the literal rendering of the Japanese word *Sui-tei* as it is used in Article 743, and elsewhere in the Code, and the Japanese term translated by the words "presumptive heir" has not the special sense which attaches to these words in English law but means simply the person in regard to whom the presumption exists that he will succeed. The term is employed in order to establish a distinction between a person upon whom the succession actually devolves,—in the case of succession to the headship of a family, upon the death, abdication, loss of nationality etc. of the person succeeded to, and, in the case of succession to property, upon the death of the person succeeded to,—and one whose succession is only prospective, and may therefore be defeated by his pre-deceasing the person succeeded to, by his disinheritance, or by his inability to succeed through other causes. In other words the use of the words

heir to the headship of a family is not injured by an adoption effected* on behalf of a sister.

いにて縁に姉
こ害其組す妹
させ相にるの
なら續因養爲
しる權り子め

974.

十七百九第
條四

In cases where a person who would succeed to the headship of the family in accordance with the provisions of Articles 970 and 972 dies, or loses his, or her, right of succession, before the succession commences, if he, or she, has a lineal descendant, the latter succeeds in the same rank as the former to the headship of the family in conformity with the order laid down in Articles 970 and 972.

者條に死て第
及直亡家九
同ひ系し督百
順第卑又相七
位九屬は續十
に百あ其人條
於七る相た及
て十き續るひ
家二き權へ第
督條はなき九
相に其失者百
續定直ひつ七
人め系た家十
きた卑る督二
爲る屬場相條
る順は合續の
序第にの規
に九於開定
從百て始に
ひ七其前依
其十者にり

975.

十七百九第
條五

If any of the following reasons exist in respect

に續督定の定
付人相家推法

“heir” and “presumptive heir” depends on whether the succession has commenced, or not, in favour of the person to whom the term is applied.

The Code recognizes three modes of succession to the headship of a family, namely:—

- a). By the operation of law. (Articles 970 and 974).
- b). By the appointment of the person succeeded to during the latter's lifetime, or by will, (Articles 979 and 981).
- c). By choice, (Article 982).

An heir to the headship of a family may therefore be legal, appointed, or chosen, but a presumptive heir to the headship of a family must be either a legal presumptive heir, or a presumptive heir appointed by the person succeeded to during the latter's lifetime.

Heirs and presumptive heirs to property on the other hand must always be legal, but as there is no other mode of succession, the Code speaks of them simply as “heirs” or “presumptive heirs,” and these terms in this context have not the comprehensive meaning which they possess in the case of succession to the headship of a family.

* i.e. by the head of the family on behalf of a sister of the heir.

列續はさき左 of a legal presumptive* heir to the headship of a
 こさ所人其きの family, the person succeeded to may apply to a Court
 なにの推はの
 得請廢定被事 of law for the heir's disinheritance:—
 求除家相由
 すな督續ある
 る裁相人

こ辱にに(一)
 なを重爲對(一)
 加大しし被
 へな又て相
 たるは虚續
 る侮之待人

こ堪家の身(二)
 せへ政狀體(二)
 さな況又病
 る執には症
 へる因精其
 きにり神他

る處因す汚(三)
 こせりへ辱(三)
 らてきな家
 れ刑罪及名
 たににほに

望告て(四)
 なな準(四)
 き受禁浪
 こけ治費
 さ改産者
 の後のさ
 の宣し

さ除同續あ此
 なを意入る他
 得請をば正
 求得親き當
 すて族はの
 る其會被事
 こ廢の相由

十七百九第
 條六

執たる相を被
 行る意續以相
 者と思入て續
 はきなを推人
 其は表廢定か
 遠遠示除家遺
 言言しす督言

- i. The subjection of the person succeeded to to cruel treatment, or gross insult.
- ii. Inability through illness, or any other physical or mental condition, to administer the affairs of the family.
- iii. Having received a criminal sentence for an offence of a nature to disgrace the family name.
- iv. If he, or she, has been interdicted, as a spendthrift, from the management of his, or her, property, and there is no hope of reformation.

If there is any other just reason, the person succeeded to may, with the consent of the family council, apply for the heir's disinheritance.

976.

If the person succeeded to has by will expressed an intention to disinherit the presumptive* heir to the headship of the family, the executor of the will must after the will takes effect apply without delay

* See Note on page 100.

to a Court of law for the disinheritance of the person in question. In such cases disinheritance takes effect retrospectively from the date of the death of the person succeeded to.

り相此請滯い
て續場求な効
其人合なく力
効のに爲裁な
力死於す判生
な亡てこ所し
生の廢さにな
す時除な廢る
には要除後
選被すの選

977.

十七百九第
條七

If the reason for the disinheritance of a presumptive* heir to the headship of a family ceases, the person succeeded to, or the presumptive* heir, may apply to a Court of law for the annulment of the disinheritance.

す取家はの推
る消督被原定
こを相相因家
さ茲續續止督
を判人人ろ相
得所は又た續
に廢はる人
請除推さ廢
求の定き除

In cases coming under sub-heading i. of Article 971 the person succeeded to may at any time apply for the annulment of the disinheritance.

このはに一第
さ取何於項九
を消時て第百
得なには一七
請て被號十
求も相の五
す廢續場條
る除人合第

The provisions of the two preceding clauses do not apply after succession has commenced.

適後總規前
用は開定二
せ之始は項
すなの相の

The provisions of the preceding Article extend to the annulment of disinheritance.

用之取廢規前
すな消除定條
準にのはの

978.

十七百九第
條八

If succession commences after an application for the disinheritance of a presumptive* heir to the headship of a family, or an application for annulment of such

相裁あ其人推
續判り取の定
を確た消廢家
開定るの除督
始前後請又用
しに其求は續

* See Note on page 100.

裁判所の管理人を
選任したる場合
に於ては第二
十七條乃至第
二十九條の規定を
準用す

第十七百九
條九

法定の推定家督相續人は家督
 相續人を指定することを得
 此指定は法定の推定家
 督相續人あるに至りたる
 ときは其効力を失ふ

家督の續指人定は之を消すことを得

前二項の規定は死亡又は障害に因る家督相續の場合にのみ之を適用す

* See Note on page 57 of Civil Code of Japan (Part I).
† See Note on page 100.

980.

條十八百九第

The appointment of an heir to the headship of a family, or its cancellation, takes effect when notice thereof is given to a registrar.

をに吏消指家
生因には定督
すり届之及相
て出なひ續
効つ戸其人
力籍取の

981.

十八百九第
條一

If the person succeeded to expresses by will an intention to appoint an heir to the headship of the family, or to cancel such appointment, the executor of the will must after the will takes effect give notice thereof without delay to a registrar. In such cases the appointment, or its cancellation, takes effect retrospectively from the death of the person succeeded to.

續要後は又被
人す遺は相
の此滞言其續
死場な執取人
亡合く行消か
のに之者を遺
時於をば爲言
にて戸其すを
選指籍遺意以
り定吏言思て
て又にかを家
其は届効表督
効其出力示相
力取つなし續
な消る生たの
生ばこたるの
す被こたさ指
相なるき定

982.

十八百九第
條二

In cases where there is neither a legal nor an appointed heir to the headship of a family, the father of the person succeeded to, if he is in the family, or if there is no father in the family, or if he is unable to express an intention, the mother, or if there is neither father nor mother in the family, or if neither is able to express an intention, the family council chooses an heir from among the members of the family in accordance with the following order:—

順をさき家法
序表きに定
に示は又被又
従す母は相は
ひる、父續指
家、父人定
族こ母其の
中能共意父督
中ばに思ある
よりさあを相
さるる表さ相
さるる表示は
相續にさるる人
に親きこ父、
人を族又き場
を選會は能あ
定は其はら於
す左意さるて
の思る其

さな家者配(一)
きる女但偶(一)

i. A wife; if she is a woman of the family.

弟兄(二)

ii. Brothers.

妹姉(三)

iii. Sisters.

偶さ該一(四)
者る當號(四)
配せに第

iv. A wife who does not come under sub-heading i.

屬系の弟兄(五)
卑直妹弟(五)

v. Lineal descendants of a brother or sister.

十八百九第
條三

983.

定る可場き家
な順な合者督
爲序得には相
さなて限正續
る變前リ當人
る更條裁のな
こしに判事選
さ又掲所由定
なはけのあす
得選た許るへ

The person, or persons, who have to choose an heir to the headship of a family may in cases where there is a just reason, with the permission of a Court of law, alter the order mentioned in the preceding Article, or may cause no choice to be made.

十八百九第
條四

984.

の人親さり第
間さ等きて九
に爲のは家百
在る最家督八
り但もに相十
て親近在續二
は等きる人條
男の者直たの
な同家系る規
先し督尊者定
にき相屬なに
す者續中き依

If there is no heir to the headship of the family in accordance with the provisions of Article 982, the ascendant in the family who is in the nearest degree of relationship succeeds to the headship of the family. As between persons in the same degree of relationship the male is preferred.

十八百九第
條五

985.

の會き續依前
親はさ入り條
族被きたての
相はる家規
家續親者督定
、人族な相に

If there is no heir to the headship of a family in accordance with the provisions of the preceding Article, the family council chooses an heir from

among the relatives of the person succeeded to, the heads of cadet branches of the family, or the members of the main, or cadet, branches of the family.

を家々く又分
選督族はは家
定相中分本の
す據よ家家戸
人りの若主

If there is no one among the persons mentioned in the preceding clause who can become heir to the headship of the family, the family council chooses an heir from among other persons.

り會な續者前
之はき人の項
を他さた中に
選入きるに揭
す中親き督た
よ族者相る

Notwithstanding the provisions of the two preceding clauses, the family council may in cases where there is a just reason, with the permission of a Court of law, choose some other person.

定可は第由親
すなら二お族
得す項る會
こて裁の場は
さ他判規合正
な人所定に當
得なのに限の
選許拘り事

SECTION III.

節三第

EFFECT OF SUCCESSION TO THE HEADSHIP OF A FAMILY.

の續相督家 力教

986.

十八百九第
條六

The heir to the headship of a family inherits from the date of the commencement of the succession the rights and duties possessed by the previous head of the family. But rights and duties which belonged personally and exclusively to the former head of the family do not come under this rule.

此の利時家
限一義よ督
に身務り相
在にを前續
ら専承戸人
す屬繼主は
せすの相
る但有續
も前せ開
の戸し始
は主權の

十八百九第
條七

987.

に家墳系
屬督墓譜
す相の祭
續の有具
の權及
權はひ

The ownership of the records of the family genealogy, of the utensils and furniture of worship, and of the family tombs, belongs to the special rights of succession to the headship of a family.

十八百九第
條八

988.

定續保證す隠
に入す書女居
違のるに戸者
反遺こ依主及
す留よりひ
る分なて確入
こに得其定夫
こ關但財日婚
なす家産附姻
得る督をあな
す規相留る爲

A person who abdicates, and a female head of a family who contracts a *niū-fu** marriage, may by a deed bearing a fixed date retain his, or her, property. But the provisions relating to the heir's portion must not be contravened.

十八百九第
條九

989.

すし權に因隠
こて者於る居
さ辨はて家又
な濟其は督は
得の前前相入
請戸戸續夫
求主主の婚
す其負はる取
入擔入家消
こ夫し夫督又
さにたの相は
な對る戸續入
爲對債合に

In cases where abdication, or marriage with a *niū-fu**, gives rise to succession a creditor of the previous head of the family may call upon the latter to satisfy his claim.

て移た場の入
之のり合離夫
さ辨しに婚婚
請濟問於に姻
求はにて因の
其負はる取
入擔入家消
こ夫し夫督又
さにたの相は
な對る戸續入
爲對債合に

In cases where succession is the result of the annulment of a marriage with a *niū-fu**, or the divorce of a *niū-fu**, the latter may be called upon to satisfy any debts incurred by him while he was head of the family.

續督は規項前
人相家定の二

The provisions of the two preceding clauses do

* See Note on page 27.

not preclude the creditor from calling upon the heir to the headship of the family to satisfy his claim.

すなるに
妨請對
け求す

990.

條十九百九第

The heir to the headship of a family who succeeds a person who has lost his national status inherits only the rights of head of a family, and the rights which belong to the special rights of succession to the headship of a family. But he is not precluded from inheriting the heir's portion, or the "succession property" specially determined as such by the previous head of the family.

すかの及國
る特みひ籍
こにを家裏
ご指承督失
な定繼相者
妨しす續の
むた但の家
する遺特督
相留權相
續分に續
財及屬人
産ひすは
な前る戸
承戸繼主
繼主利權

If, in cases where a person who has lost his national status possesses rights which he is unable to enjoy unless he is a Japanese, the person in question does not transfer them within one year to a Japanese, these rights revert to the heir to the headship of the family.

利に於ささ國
は讓てるれ籍
家渡一權に裏
督さ年利享失
相ささ内を有者
續るに有すか
人に之する日本
にきなる日本
に歸は日場さ人
屬其本合なに
す權人に得非

991.

條一十九百九第

In cases where loss of national status gives rise to succession a creditor of the former head of the family may call upon the heir to the headship of the family to satisfy his claim to the extent of the property which he has received.

求限し債の國
を度て權場籍
爲には者合裏
す於其はに失
こて受家於に
さのけ督て因
なみた相はる
得辨る續前家
濟財人戸督
の産に主相
請の對の續

章二第

CHAPTER II.

續相産遺

SUCCESSION TO PROPERTY.*

節一第

SECTION I.

則總

GENERAL RULES.

十九百九第
條二

992.

始り亡族續遺
すてにのは産
開因死家相

Succession to property begins by the death of
a member of a family.

十九百九第
條三

993.

之遺條九五第
な産の百條九
準相規六乃百
用續定十至六
すには八第十

The provisions of Articles 965-8, inclusive, ex-
tend to succession to property.

節二第

SECTION II.

人續相産遺

HEIRS TO PROPERTY.

十九百九第
條四

994.

從規は系人被
ひ定左卑の相
遺にの屬直續

The lineal descendants of the person succeeded
to succeed to his property in conformity with the

* Succession to the property of a deceased person as deter-
mined by law (i.e. intestate succession).

following provisions :—

るさ継産
爲人相

i. As between persons in different degrees of relationship, the nearest is preferred.

すきり者異(○)
者てのな(○)
なは隣り親
先其にた等
に近在るの

ii. Persons in the same degree of relationship rank together.

人連位者つ(○)
さ産には同(○)
爲相於同じ親
る續て順き等

995.

十九百九第
條五

In cases where one, or several, of the persons upon whom the succession would devolve in accordance with the provisions of the preceding Article die, or lose their right of succession before the succession commences, if such person, or persons, have lineal descendants, the latter succeed to the property in the same rank as the former in conformity with the provisions of the preceding Article.

同系て又る前
順卑其はへ條
位屬者其きの
にはに相者規
於前直續か定
て條系種相に
遺の卑な續依
産規屬失のり
相定あひ開て
續にるた始遺
人從さる前産
さひき場に相
爲るは合死續
る者其に亡人
さ直於した

996.

十九百九第
條六

In cases where there is no one upon whom the succession would devolve in accordance with the provisions of the two preceding Articles the order of priority of the persons upon whom the succession to the property devolves is as follows :—

者遺きて前
の産者遺二
順相な産條
位續き相の
左な場續規
の爲合人定
如すにたに
しへ於る依
きてへり

i. A consort.

者偶配 一第

ii. Lineal ascendants.

尊系直 二第
屬

iii. The head of the family.

主戸 三第

す親九ての前
定十は場項
を四第合第
準條九に二
用の百於號

The provisions of Article 994 extend to cases coming under sub-heading ii. of the previous clause.

十九百九第
條七

997

さ人遺た左
なを産るに
得る相者掲
すこ續はけ

The following persons cannot succeed to property :—

に致者位は○
處さを若遺○
せん死く産故
らさには相意
れし致同續に
たなし順に被
るる又位付相
者爲はにき續
め死在先人
刑にる順又

i. A person who has received a criminal sentence for having wilfully killed, or attempted to kill, the person succeeded to, or a person who ranks before, or with, him in the succession.

た號乃條百○
るに至第六○
者掲第二十第
げ五號九九

ii. The persons mentioned in sub-headings ii. to v., inclusive, of Article 969.

十九百九第
條八

998.

裁推加爲人遺
判定へし○留
所遺た又被分
に産るは相を
請相さ之續有
求續きに人す
す人は重にる
る廢被大對推
除相なし定
この續るて遺
か取人侮虐産
得消は辱待相
な其なを續

If a presumptive* heir to property who is entitled to the heir's portion treats with cruelty, or grave insult, the person succeeded to, the latter may apply to a Court of law for his disinheritance.

十九百九第
條九

999.

推て時は續被
定もに何人相

A person succeeded to may at any time apply

* See Note on page 100

to a Court of law for the annulment of the disin-
heritance of the presumptive heir to property.

遺産相続
人廢除の
取消を鐵
判所に請
求するこ
とを得

1000.

條千第

The provisions of Articles 976 and 978 extend to the disinheritance of presumptive heirs to property and to the annulment of such disinheritance.

第九百七十六條
及第九百七十
八條の規定は推
定遺産相続人の
廃除及び其取消
に之を準用す

SECTION III.

第三節

VALIDITY OF SUCCESSION TO PROPERTY.

力の相違
数値産

SUB-SECTION I.

第一款

GENERAL RULES.

財線

1001.

第一千第

An heir to property inherits from the date of commencement of the succession the rights and duties which belonged to the property of the person succeeded to. But rights and duties which belonged personally and exclusively to the latter do not come under this rule.

遺産相続人は相続開始の時より被相続人の財産に属せし一切の權利義務を承継す但被相続人の一身に専屬せしものは此限に在らず

條二千第

には相る人遺
屬其續と數產
す共財と人相
有産はわ續

1002. If there are several heirs to property, the property of the succession is owned by them jointly.

條三千第

承權被分人各
繼利相には共
す義續應其同
務人し相相
なて續續

1003. Each of the co-heirs inherits the rights and duties of the person succeeded to in proportion to his, or her, share of the succession.

款二第

SUBSECTION III.

分續相

SHARES OF SUCCESSION.

條四千第

1004.

分于人しき同
ののあきは順
二相るも其位
分續さの各の
の分さとの自
一ははすの續
さ適庶但相入
す出子直續數
子及系分人
のひ早はあ
相私屬相と
續生數均と

If there are several heirs who rank together, they share equally in the succession. But if there are several lineal descendants, the share of a *sho-shi*, and that of an illegitimate child, are fixed at half of the share of a legitimate child.

條五千第

1005.

續系統に五第
分卑人依條九
は屬たりの百
其のるて親九
繼相直相第十

The share of a lineal descendant who is an heir in accordance with the provisions of Article 995 is the same as that which would have been received

by his, or her, lineal ascendant. But if there are several lineal descendants, their shares are determined in conformity with the provisions of the preceding Article according to the portions which would have been received by their respective lineal ascendants.

てに尊あの系
其付屬るに卑
相きかさ同屬
續前受きしつ
分條くは但受
なへ其直くへ
定規の各系へ
む定り自卑か
にしの屬りし
從部直數し
ひ分系人も

1006.

條六千第

Notwithstanding the provisions of the two preceding Articles, a person succeeded to may by will determine, or depute a third person to determine, the shares in the succession of the co-heirs. But the person succeeded to, or the third person in question, cannot contravene the provisions relating to the heir's portion.

に又者なす被
違はに定遺相
反第委め言續
す三託又な人
る者すは以は
こはる之て前
こ遺こな共二
な留と定同條
を得分なむ相
すに得る續規
關但こ人定
す被さのに
る相な相拘
規續第續は
定人三分ら

If the person succeeded to determines, or causes to be determined, the share, or shares, in the succession of only one, or some, of the co-heirs, the shares in the succession of the other co-heirs are determined in accordance with the provisions of the two preceding Articles.

依のたみ一被
り相るな人相
て續さ定若續
之分きめく人
なはは又はか
定前他は數共
む二の之人同
條共なの相
の同定相續
規相め續人
定續し分中
に人めのの

1007.

條七千第

If one of several co-heirs has received from the person succeeded to a bequest, or has received from him, or her, a donation for the purpose of marriage, or adoption, of establishing a fresh branch of the

め廢養を相共
者絶子受續同
し家縁け人相
く再組又よ續
は與ふはり人
生の分婚遺中
計爲不細職被

てより其贈の family, or of resuscitating a family which has died
 其り前贈人資 out, or as capital for subsistence, the value of the
 者其三與の本 出, or as capital for subsistence, the value of the
 の遺條の相と bequest, or donation, in question, added to the value
 相贈の價額し bequest, or donation, in question, added to the value
 贈又規額開て of the property possessed by the person succeeded
 分は定な始 of the property possessed by the person succeeded
 と贈に加之典 to at the date of commencement of the succession, is
 す與依へ時を受 regarded as the property of the succession, and the
 のりたに受 value of the bequest, or donation, having been de-
 價てゐる者 ducted from the recipient's share of the succession, as
 額算もてた value of the bequest, or donation, having been de-
 な定の有者 ducted from the recipient's share of the succession, as
 控しをせある calculated in accordance with the provisions of the
 除た相しある calculated in accordance with the provisions of the
 する贈財とさ three preceding Articles, what remains over is fixed
 其相財産さ as such person's share in the succession.
 殘贈産のき
 額分と價は
 なの看額被
 以中做に相

く贈さしか違 If the value of such bequest, or donation, exceeds
 る者さく相贈 the value of his share of the succession, the legatee
 こは又贈又 the value of his share of the succession, the legatee
 其受は分は or donee, cannot receive his share.
 な相遺之の贈
 得贈者に價典
 す分又超額の
 をは伊に價
 受受る等額

内る思表定被 If the person succeeded to expresses an intention
 に規表示に相 contrary to the provisions of the two preceding clauses,
 於定示し異贈 such intention is valid so long as it does not con-
 てにはたな人 travenne the provisions relating to the heir's portion.
 其反違るりか
 效せ留さる前
 力さ分さる二
 なるには意項
 有範圍其思の
 す圖す意を規

條八千第

1008.

と價財爲の前 With regard to the value of the donation men-
 き格産に價條 tioned in the preceding Article, even if the property
 さの因額に which is the subject of the donation has been de-
 雖増減りは揚 stroyed, or reduced in value, by the act of the donee,
 も減失其受け it will be regarded as being in the condition in which
 相あし目贈た
 續り又的者る
 開たはたの贈
 始る具る行典

it was at the date of commencement of the succession, and its value determined accordingly.

を數してほの
定しの存原當
むてさす狀時
之看るに仍

1009.

條九千第

If one of the co-heirs before the distribution of the property transfers his share of the succession to a third person, the other co-heirs may repay to the latter its value, and any expenses incurred in connection therewith, and acquire by transfer from him the share in question.

譲用同譲前共
受を相渡に同
く償續し其相
還人た相續
こしてはる續人
さて其さ分ら
な其價きを一
得相額は第人
續及他三
分ひの者分
な費共に對

The right mentioned in the preceding clause must be exercised within one month.

する之一た前
こさ个る項
さ行月權に
な使内利定
要すにはめ

SUB-SECTION III.

款三第

DISTRIBUTION OF PROPERTY.

割分の産遺

1010.

條十千第

A person succeeded to may by will determine, or depute a third person to determine, the method of distribution of his property.

る第を法を被
こ三定を以相
こさ者む定て續
をにるめ分人
得委こ又割は
託さほの遺
すな之方言

1011.

條一十千第

A person succeeded to may by will forbid the distribution of his property to take place within a

時開て言人被
よ始相をは相
りの續以遺被

この間五 period not exceeding five years from the date of
 年 commencement of the succession.
 禁内さ
 と得す分るな
 る罰期超

條二十千第

1012.

力に相違 The distribution of property takes effect retro-
 なを過續産 spectively from the date of commencement of the
 生り開の
 して始分
 其の割
 効時は succession.

條三十千第

1013.

に續對付始各 In proportion to his share of the succession each
 任分しき前共 co-heir has, in respect of reasons existing before the
 すに賣他よ同
 應主のり相
 しと共存續
 て同同す人
 擔し相るは
 保く續事相
 の其人由續
 責相にに開
 seller.

條四十千第

1014.

資當人分各 In proportion to his share of the succession each
 力時るかに共 co-heir guarantees the solvency, at the time of dis-
 なに債分應同 tribution, of a debtor in respect of a claim acquired
 擔於權割し相 by another co-heir by reason of the distribution.
 保けにに他續
 する付因の人
 債きり共は
 務分て同其
 のの受相相
 ののけ續續

のき續權權辨 In the case of a claim the payment of which is
 資時人に及濟 not yet due, each co-heir guarantees the solvency of
 力には付ひ期 the debtor at the time when payment is due.
 な於辨て停に
 擔け濟は止在
 保るな各條ら
 す債爲共件さ
 務す同附る
 者へ相債償

1015. 條五十千第

If one of the co-heirs who have the responsibility of guarantee is without the means to repay his share of the debt, the portion he is unable to repay is borne by the co-heir claiming re-imbursement, and the other solvent co-heirs, in proportion to their respective shares of the succession. But if any fault has occurred on the part of the co-heir claiming re-imbursement, he cannot call upon the other co-heirs to bear their shares of the debt.

し者能す擔
てに各は資保
分其さる力責
擔失相るふ貴
なある部ぎに
請求分分者任
するにばある
るに應求する
ことほし償さ共
こ他て者き同
をの之及は相
得な共なひ其續
す相分他償人
續相擔の還中
す相擔の還償
人但力る還
に求あな
對償るを爲

1016.

條六十千第

If the person succeeded to expresses an intention contrary to the provisions of the three preceding Articles, these provisions are not applied.

せき思を被前
すきを以相三
は表て續條
之示別人の
なし段々規
適たの違定
用る意言は

CHAPTER III.

章三第

ACCEPTANCE AND RENUNCIATION OF SUCCESSION.

以承相
拋認續
棄及の

SECTION I.

節一第

GENERAL RULES.

則總

1017.

條七十千第

Any heir must, within one month after he, or

相めの自人相
續に爲己は腹

之檢要定の事すのの仲の但承り開始あり
長請此認三求期又个月た
るに間は内たるこ
こにり棄にこ
こを裁害な單
得判關爲純
所係す若知
に人こく
於又こは
てはな限

she, becomes aware of the commencement of succession on his, or her, behalf accept the succession, either unconditionally, or conditionally, or renounce it. But this period may be extended by a Court of law on the application of an interested party, or of a public prosecutor.

こ調相を認相
を實續爲又續
なを財すは人
得爲産前抛は
すのに棄承

An heir may before acceptance or renunciation make an examination of the property of the succession.

條八十千第

1018.

たの相前さ相
開續條す續
時始人第し人
よりあ一てか
りり自項死承
た己の期亡認
なを起間し又
起こ爲間たは
算さめは抛
すなに其棄
知相者さ
り續のは爲

If an heir dies before accepting or renouncing the succession, the period mentioned in the first clause of the preceding Article is reckoned from the date on which his, or her, heir, or heirs, become aware of the commencement of succession on his, or her, or their behalf.

條九十千第

1019.

る始能期き相
時め力間は續
より者は第人
りたの其千か
之る爲法十無
なこめ定七能
起さに代條力
算な相理第者
す知續人一な
りのか項る
た開無のさ

If an heir is without legal capacity, the period mentioned in the first clause of Article 1017 is reckoned from the time his, or her, legal representative becomes aware of the commencement of succession on the heir's behalf.

條十二千第

1020.

な抛人相家法
爲棄は續督施

A legal heir to the headship of a family cannot

renounce a succession. But this rule does not apply to the persons mentioned in Article 984.

らは扱八すす
す此け十但こ
限た四第こ
にる條九な
在者に百得

1021.

條一十二千第

An heir must until such time as he, or she, accepts, or renounces, the succession manage the property of the succession with the same care as his, or her, own* property. But if he, or she, accepts, or renounces, the succession, this rule does not apply.

ははる以於相
此抛こてけ續
限棄と相る人
になな續とは
在爲要財同其
らしす産一同
すた但なの有
る承管注財
と認理意産
き又すなに

A Court of law may at any time on the application of an interested party, or a public prosecutor, order the necessary steps to be taken for the preservation of the property of the succession.

す必相に人裁
る要續因又判
こな財りは所
こる産何始は
か處の時事利
得分保にの害
な在て請關
命にも求係

The provisions of Articles 27-9, inclusive, extend to cases where a Court of law selects a manager.

準十十合を裁
用九七に選判
す條條於任所
の乃てしッ
規至はた管
定第第る理
な二二場人

1022.

條二十二千第

Acceptance and renunciation cannot be cancelled even within the period named in the first clause of Article 1017.

す消さ一第承
す雖項千認
こもの十及
さ之期七抛
かな間條棄
得取内第は

The provisions of the preceding clause do not preclude the cancellation of acceptance and renunciation in accordance with the provisions of Book I.

爲抛り編第前
す棄ての一項
この承規編の
と取認定及規
な消又にひ定
妨なは依前は

* The expression *ko-yū no zai-san* includes property apart from that which is acquired by the succession.

を認はるは
經又時月す
過は效間こ
し棄に之を
た棄因をな
るのり行得
さ時てはる
きよ消さ時
亦り減るよ
同十すこり
し年承き六

and the preceding Book. But if the right of cancellation is not exercised within six months after ratification is possible, it ceases by prescription. It is the same if ten years have elapsed since acceptance, or renunciation.

節二第

SECTION II.

認承

ACCEPTANCE

款一第

SUB-SECTION I.

認承純單

UNCONDITIONAL ACCEPTANCE.

條三十二千第

1023.

繼權に承相
す利被と認續
義相きを人
務續は爲か
な人無し單
承の限た純

If an heir accepts unconditionally, he or she inherits unconditionally the rights and duties of the person succeeded to.

條四十二千第

1024.

する承相場左
も認續合に
のを人に携
さ爲は於け
看し單てた
徹た純はる

In the following cases an heir is regarded as having accepted unconditionally:—

し部部財人○
たな又産か○
る處はの相相
さ分一全續續

- i. If he, or she, has dealt with the whole or a part, of the property of the succession.

But acts for the preservation of the property, and letting to hire for a period not exceeding that fixed in Article 602, do not come under this rule.

ら爲越定ひき
すすねめ第但
はさた六保
此るる百存
限買期二行
に貸間條爲
在ななに及

- ii. If he, or she, has neither accepted the succession conditionally, nor renounced it, within the period mentioned in the first clause of Article 1017.

爲承の千〇
さ認期十二
さ又間七相
りは内條續
し抛に第八
さ棄限一か
きな定項第

- iii. If even though he, or she, has accepted the succession conditionally, or renounced it, he, or she, has concealed, or privately consumed, or acting in bad faith has omitted to enter in the list of property, the whole or a part of the property of the succession. But this rule does not apply after the person who has acquired the right of succession by the heir's renunciation has accepted.

か棄目し後〇
承を録私さ〇
認爲中に雖相
なしに之も續
爲た記を相人
する載消續か
たにせ費財限
る因さし産定
後りり又の承
はてしは全認
此相さ惡部又
所續き意若は
に人但なく抛
在さ其以は棄
ち爲相て一な
ずり續之部爲
た人ををし
るか財産匿
者抛産匿る

SUB-SECTION II.

款二第

CONDITIONAL ACCEPTANCE.

認承定限

1025.

條五十二千第

An heir may accept with the reservation that he will pay the debts and bequests of the person suc-

て限るり相相
の度財て續續
みに産得に入
被於のた因は

な認を濟及相
得を留すひ續
爲保へ遺人
すしと贈の
こてこな債
さ承さ辨務

ceeded to to the extent only of the property acquired by him, or her, by reason of the succession.*

條六十二千第

1026.

述出な第こ相
すし調一欲續
る限製項す人
さ定しのるか
さ承て期さ限
な認之期さ定
す爲をな内承
す判財千ル
旨所産十爲
なに日七さ
申提録條ん

If an heir wishes to accept conditionally, he, or she, must prepare a list of the property within the period mentioned in the first clause of Article 1017, and, producing it before the Court of law of the place where the succession commences, state his conditional acceptance.

條七十二千第

1027.

のはて其な相
消有被爲續
看滅せ相し人
做せし續たか
り利にさ定
し義對き承
も務しは認

If an heir accepts conditionally, the rights and duties which he, or she, possessed towards the person succeeded to are regarded as not having ceased.

條八十二千第

1028.

るのなる因限
こ管以さ有定
さ理て同財承
なを相一産認
を繼續のに者
す續財注於ほ
す産息け其

An heir who accepts conditionally must in continuing the management of the property of the succession exercise the same care as in the case of his, or her, own† property.

十第十第十第
條六六六五六
第百條百條百
一五、四、四

The provisions of Articles 645 and 646, those of the first and second clauses of Article 650, and those

* Acceptance "*sous bénéfice d'inventaire*."

† See Note on page 121.

of the second and third clauses of Article 1021, extend to cases coming under the preceding clauses.

準のの第第項
用場規二千第
す合定項二二
には第十項
之前三一及
な項項條ひ

1029.

條九十二千第

An heir who accepts conditionally must, within five days of his, or her, acceptance, by public notice inform all the creditors of the succession, and legatees, of the fact, and call upon them to send in their claims within a fixed period. This period cannot be less than two months.

期すひ者五限
間へき定對内承
はき定對内承
二个月を公告するに認相定
下るこ其を續承
こ求し權な
な得要申る及した
す出こひた
但なさ受る
其為及遺後

The provisions of the second and third clauses of Article 79 extend to cases coming under the preceding clause.

準場定第第第
用合は三二七
すに前項項十
之項の及九
なの規ひ條

1030.

條十三千第

An heir who accepts conditionally may refuse to satisfy the claims of creditors of the succession, and legatees, before the expiration of the period mentioned in the first clause of the preceding Article.

なて及前第限
得辨ひに一定
濟受は項承
な遺相の認
拒者續期者
むに債問は
こ對權滿前
さし者了條

1031.

條一十三千第

After the expiration of the period mentioned in the first clause of Article 1029 an heir who accepts conditionally must satisfy out of the property of the

其續定滿第第
期財承了一千
間產認の項二
内な者後の十
に以はは期九
申て相限間條

出たる債権者其他債権者額
 たる債権者其他債権者額
 の割合に應じ各債権者の
 割合に應じ各債権者の
 有する債権の額に依りて
 有する債権の額に依りて
 することを得ず

succession the claims of creditors who have sent in their claims within the period in question, and those of other creditors who are known to him, in proportion to the amount of each claim. But the rights of a creditor whose claim has precedence cannot be injured.

第二十三号第

1032.

規定の債権者に依りて
 規定の債権者に依りて
 要する債権の額に依りて
 要する債権の額に依りて
 することを得ず

An heir who accepts conditionally must, in accordance with the provisions of the preceding Article, even satisfy claims the payment of which is not yet due.

債権者の間に附屬債権又存
 債権者の間に附屬債権又存
 する債権の額に依りて
 する債権の額に依りて
 することを得ず

With regard to conditional claims, and claims the period of duration of which is not definitely fixed, there must be satisfied in accordance with the valuation of an appraiser selected by a Court of law.

第三十三号第

1033.

各債権者の規定の債権者に依りて
 各債権者の規定の債権者に依りて
 有する債権の額に依りて
 有する債権の額に依りて
 することを得ず

As heir who accepts conditionally cannot pay a legatee until after he has satisfied the claims of all the creditors in accordance with the provisions of the two preceding Articles.

第四十三号第

1034.

却相を前に
 却相を前に
 する債権の額に依りて
 する債権の額に依りて
 することを得ず

If it is considered necessary to sell the property of the succession in order to satisfy the claims against it, in accordance with the provisions of the three

preceding Articles, the heir who accepts conditionally must sell it by auction. But he may pay the value of the whole, or a part, of the property as assessed by an appraiser selected by a Court of law, and stop the sale by auction.

承認者は之を競賣に付する
 こを要す但裁判所に於て
 選任したる鑑定人の評價に
 従ひ相續財産の全部又は一
 部の價額を辨濟して其競賣
 を止むることを得

1035.

條五十三千第

A creditor of the succession, or a legatee, may at his own expense take part in the sale by auction, or appraisement, of the property of the succession. In these cases the provisions of the second clause of Article 260 shall be applied.

相續債權者及び受遺者は、自己の費用を以て相續財産の競賣又は鑑定に参加することを得る場合に於ては、第二百六十條第二項の規定を準用す。

1036.

條六十三千第

Should an heir who accepts conditionally neglect to give the public or special notice mentioned in Article 1029, or should he be unable to pay other creditors, or legatees, owing to his having paid certain creditors or legatees within the period determined in accordance with the provisions of that Article, he is bound to give compensation for any loss thereby sustained. It is the same if he satisfies any claim in contravention of the provisions of Articles 1031-3, inclusive.

[illegible]

債權達けり前
を者者たる項
妨又はる不の
けは對債常規
す受す權に定
違る者辨は
者他又濟情
ののはなを
求債受受知

The provisions of the preceding clause do not preclude the other creditors, or legatees, from claiming re-imbursement from a creditor, or legatee, who, knowing the circumstances, improperly receives payment of his claim.

之場は四第
な合前條七
適に二の百
用も項規二
す亦の定十

The provisions of Article 724 also apply to cases coming under the two preceding Articles.

條七十三千第

1037.

有な財限出第
す得産定て千
る但に承さ二
者相付認し九
は續て者し條
此財のに債權
限産み知權第
にに其れ者一
に付權さ及項
らき利り受の
す特行者這期
別ふはに内
擔係にに
なを餘て申

Creditors and legatees who fail to send in their claims within the period mentioned in the first clause of Article 1029, and who are unknown as such to an heir who accepts conditionally, can only exercise their rights in respect of such property as may be left over. But this rule does not apply to a person who holds special security.

節三第

SECTION III.

棄抛

RENUNCIATION.

條八十三千第

1038.

すす織る爲相
る判者さ續
こ所はんの
さに其さ抛
な申旨欲棄
要述をすな

A person who wishes to renounce a succession must state the fact to a Court of law.

1039.

條九十三千第

Renunciation of a succession takes effect retrospectively from the date of commencement of the succession.

力遡開抛
なり始棄
生てのは
す其時相
效に續

If in cases where there are several heirs to property one of the heirs renounces the succession, his share of the succession reverts to the other heirs in proportion to their shares of the succession.

應分の一お數
しはる人る人
て他さか場の
之のき抛合違
に相は棄に産
歸續其な於相
屬分相爲て續
すに續し其人

1040.

條十四千第

A person who has renounced a succession must continue the management of the property with the same care as he exercises in the management of his own property until such time as the person who becomes heir through his renunciation is able to undertake the management of the property of the succession.

理さなり棄相
な同得相に續
繼一る續因の
續のま財り抛
す注て産て棄
る意自の相み
みを己管續爲
さ以て理人し
なて財をさす
要其産始爲る
す財にむり者
産於るたは
のけこる其
管るさ者抛

The provisions of Articles 645 and 646, those of the first and second clauses of Article 650, and those of the second and third clauses of Article 1021, extend to cases coming under the preceding clause.

場第ひ十百第
合三第條四六
に項千第十百
之の二一六四
規十項條十
準定一、五
用は條第第條
す前第二六
項二項百第
の項及五六

章四第

CHAPTER IV.

離の財
分産

SEPARATION OF PROPERTY.

條一十四千第

1041.

の満裁中の相
固了判より續
有の所より債
財後相り權
産と請續三
と難求財者
混す産又
合相る内
せ續な
さる分
るに
財離
産か遺
同得人
亦相の
續其こ
同續ま
し人間を産始

A creditor of the succession, or a legatee, may within a period of three months from the date of commencement of the succession apply to a Court of law for the separation of the property of the succession from the property of the heir. The same course may be followed even after the expiration of the period in question so long as the property of the succession is not mixed up with the heir's own* property.

期入命他し裁
間の令のた判
内申あ相る所
はなり續さ
二爲たる
个すこ者其
ハへきこ及請
下旨ひ求
るをひ受を
こ公遺爲
告定者し
すのにた
得る期對る財
すこ内者
さ内財は
な産五
要配分日
す當離
但加にの命

If in consequence of the application mentioned in the preceding clause a Court of law issues an order for the separation of the property, the applicant must within five days by public notice inform the other creditors of the succession, and legatees, of the fact, and call upon them to give notice within a fixed period of participation in the distribution of the property. The period in question cannot be less than two months.

* See Note on page 121.

1042.

條二十四千第

A person who has applied for the separation of property, and a person who has in accordance with the provisions of the second clause of the preceding Article given notice of participation in the distribution of property, have the right to receive payment of their claims before creditors of the heir.

濟相し依者財
を續たり及産
受人るてひ分
くの者配前離
價は當條の
權相加第請
者續入二求
に財の項を
先産申の爲
ちに出規し
て付を定た
辨き爲にる

1043.

條三十四千第

If an application for the separation of property is made, a Court of law may order the necessary steps to be taken for the management of the property of the succession.

命必産裁あ産
す要の判り財
るな管所た分
こる理はる離
さ處に相さの
な分付續き請
得なき財に求

The provisions of Articles 27-9, inclusive, extend to cases where a manager is selected by a Court of law.

準十十合を裁
用九七に選判
す條條於任所
の乃てし
規至はた管
定第第る理
な二二場人

1044.

條四十四千第

Even after an heir has accepted the succession unconditionally, if an application for the separation of the property is made, he must thenceforth manage the property of the succession with the same care as his own* property. But cases where a manager is

てけは離し相
相る爾のた續
續さ後請る人
財同其求後
産一固あさ單
のの有り雖純
管注財たも承
理意産る財認
なをにこ産を
爲以於き分爲

* See Note on page 121.

すは任て但す selected by a Court of law do not come under this
此し管裁こ rule.
限た理判さ
にる人所を
在さなを要
らき選於す

に規域及至第 The provisions of Articles 645-7, inclusive, and
之定一ひ第六 those of the first and second clauses of Article 650,
なほ項第六百 extend to cases coming under the preceding clause.
準前、六百四
用項第百四十
すの二五十五
場項十七條
合の條條乃

條五十四千第

1045.

る第き登動財 In the case of immoveables a separation of pro-
こ三れ記産産 perty cannot, unless it is registered, be set up against
さるはなにの a third person.
をに之爲付分
得對なすて離
す抗以にはは
すて非其不

條六十四千第

1046.

用に離は條第 The provisions of Article 304 extend to cases of
す之の財の三 separation of property.
な場産規百
準合分定四

條七十四千第

1047.

こに續の條相 An heir may refuse to pay the claims of creditors
さ對債期第續 of the succession and legatees before the expiration of
なし權間一人 the period named in the first and second clauses of
得て者滿項は Article 1041.
辨及了第
濟ひ前ひ千
な受に第四
拒遣は二十
む者相項一

ての第者り財 If an application for the separation of property
財後二はた産 is made, the heir must after the expiration of
産相項第る分 the period named in the second clause of Article
分續の千と離 the period named in the second clause of Article
離財期四きの産間十は請 1041 pay the claims of the creditors, or legatees, who
請を滿一相求
求以了條續あ

have applied for the separation of the property, or who have given notice of participation in the distribution of the property, in proportion to the amount of each claim. But the rights of a creditor whose claim has precedence cannot be injured.

すなを其た又
る有爲債るは
こすすの權債配
さるこの權當
を債さ割者加
得權を合及入
す者要にひの
のす應受申
權但し遺出
利優て者を
を先辨に爲
害權濟各し

The provisions of Articles 1032-6, inclusive, extend to cases coming under the preceding clause.

な規三條第
準場定十乃千
用合は六至三
すに前條第十
之項の千二

1048.

條八十四千第

Persons who have applied for the separation of property, and those who have given notice of participation in the distribution of property, can only exercise their rights in respect of the heir's own* property in cases where they are unable to receive full satisfaction of their claims out of the property of the succession. In such cases creditors of an heir may receive payment of their claims before them.

に相のの財
先得續辦申産
此人濟出分
て場のなを離
辦合固受爲の
濟に有くし請
を於財るた求
受て産くるを
くはにさ者爲
る相付能はし
こ續きは相た
さ人其さ續る
のの權り財者
得債利し産及
權な場をひ
者行合以配
はふにて當
其こ限全加
者さり部入

1049.

條九十四千第

An heir may by satisfying the claim of a creditor of the succession, or of a legatee, out of his own* property, arrest an application for separation of the property, or cause its validity to be extinguished. But

しに辨者産相
て相濟若を續
財當なく以人
産の爲はては
分擔し受相其
離保又遺續固
のなは者債有
請供之に權財

* See Note on page 121.

るなり相請求
さけて續減を
明損人せ防
はし害のし止
此てな權むし
限異受償る又
に議く者みは
在なへか其
ら述き之を効
すへこに得力
たこと因但を

this rule does not apply to cases where a creditor of the heir objects to to this course being followed, proving that he will suffer loss thereby.

條十五千第

1050.

請其財續す相
求價産財こ續
な者權と産さ人
爲混かか
すは合相得限
こ財せ續る定
こ産人間承
を分るの又認
得離間固はな
のば有相爲

So long as an heir is able to accept conditionally, or so long as the property of the succession and the heir's own* property are not mixed up, his creditors may apply for the separation of the property.

な定項千乃第
爲めの四至三
した場十第百
たる合五千四
公に條三條、
債告之及十第
權及なひ六千
者之準第條、
之僅用千、二
な告す四十七
爲は但四千條、
す財第八四第
こ産千條第十
さ分の三千
な離十規條二
要の九定乃十
す請條は至九
求に前第條

The provisions of Article 304, those of Article 1027, those of Articles 1029-36, inclusive, those of Article 1043-5, inclusive, and those of Article 1048 extend to cases coming under the preceding clause. But the public notice and special notice prescribed by Article 1029 must be given by a creditor who applies for the separation of the property.

* See Note on page 121.

CHAPTER V.

章五第

FAILURE OF HEIRS.

贖人相
缺の續

1051.

條一十五千第

If it is uncertain whether there is an heir, or not, the property of the succession is made a legal person.

さばはらこ相
す之相ささ續
な續み分人
法財さ明あ
人産きなる

1052.

條二十五千第

In cases coming under the preceding Article a Court of law must on the application of an interested party, or of a public prosecutor, select a manager.

るの求係は前
こ管に人裁條
さ理因又判の
な人りは所場
要な相檢は合
す選續事利に
任財の害於
す産請關て

A Court of law must without delay give public notice of the appointment of a manager.

さ告選管選裁
なす任理滯判
要るな人お所
すこ公のくは

1053.

條三十五千第

The provisions of Articles 27-9 extend to managers of the property of a succession.

之のは九乃第
な管相條至二
準理續の第十
用人財規二七
すに産定十條

1054.

條四十五千第

A manager must, if application is made therefor by a creditor of the succession, or a legatee, report to the applicant on the condition of the property of the succession.

るのはの權管
こ情之請者理
さ況に求又人
なな相あはは
要報續る受相
す告財さ達續
す産き者贖

條五十五千第

1055.

行權さ人る相
爲限看はに續
の内做存至人
效にす立りあ
力於但せたる
なて管理さこ
妨爲理りこ
すたかもし分
る其の法な

In the event of its being positively ascertained that there is an heir, the legal person is regarded as never having existed. But this does not impair the validity of acts performed by the manager within the limits of his authority.

條六十五千第

1056.

て承人理管
消る認か權理
滅時を相は人
すに爲續相の
於しの續代

The powers as agent of a manager cease when an heir appears, and accepts the succession.

要算對滯て前
すなしは項
爲てく管の
す管相理場
こ理續入合
さの人はに
を計に遅於

In cases coming under the previous clause the manager must without delay furnish the heir with an account of management.

條七十五千第

1057.

期出續至る第
間を續ら後千
は爲權さ二五
す者る个十
二へにさ月二
月き對き内條
な旨しはに第
下な一管相二
る公定理續項
告の人人に
こさ期はあ定
かる間遅るめ
得こ内滯みた
すこになさる
な其く分公
要請一明告
す求切なあ
但のるなり
其申相にた

If within two months after the public notice mentioned in the second clause of Article 1052 has been given the fact of there being an heir is not positively ascertained, the manager must without delay by public notice call upon all the creditors of the succession and legatees to send in their claims within a fixed period. This period cannot be less than two months.

三ひ三二九第
十第項項條七
條千及第十

The provisions of the second and third clauses of Article 79, and those of Articles 1030-37, extend to

cases coming under the preceding clause. But this rule does not apply to the proviso attached to Article 1034.

は四用の條乃
此條す場の至
限但合規第
に書第に定千
在の千之は七
ら規三を前十
す定十準項三

1058.

條八十五千第

In cases where after the expiration of the period fixed in accordance with the provisions of the first clause of the preceding Article it is still uncertain whether there is an heir or not, a Court of law must on the application of the manager, or of a public prosecutor, by public notice call upon the persons who have rights of succession, if there are any such persons, to assert their rights within a fixed period. This period cannot be less than one year.

告定のる前
す又こさ第一
この期はさ分
得る間檢明項
すにのな
な其請ら期
要す權求さ間
但理にる滿
其な因さ了
期主りきの
間張相は後
はす續歳仍
一へ人判ほ
年きあ所相
を旨らば續
なをば管人
る公一理あ

1059.

條九十五千第

If within the period mentioned in the preceding Article no person asserts his rights to the succession, the property of the succession reverts to the Treasury. In these cases the provisions of the second clause of Article 1056 shall be applied.

二於國なた前
項て庫きる條
のはにさ權の
規第歸き利期
定千屬はな間
な五す相主内
準十此續張に
用六場財す相
す條合産る續
第には者人

Creditors of the succession and legatees cannot exercise their rights against the Treasury.

なをしは及相
得行て國ひ續
すふ其庫受償
こ權に遺權
と利對者者

章六第

言遺

CHAPTER VI.

WILLS.

節一第

則總

SECTION I.

GENERAL RULES.

條十大千第

1060.

さ之に方に遺
なを非式定言
得爲さによは
すすれ従た本
こはふる法

Wills cannot be made except in accordance with the formalities prescribed by this Code.

條一十六大千第

1061.

な爲はし以満
得す遺た上十
こ言るに五
さな者達年

A person who has attained the full age of fifteen years may make a will.

條二十六大千第

1062.

せにの及條第
すは規ひ、四
之定第條
なは十、
通達四二第
用言條條九

The provisions of Articles 4, 9, 12 and 14 do not apply to wills.

條三十六大千第

1063.

こ力に言遺
さな於を言
を有て爲者
要す其すは
する能時遺

A testator must at the time of making a will possess the requisite legal capacity.

1064.

條四十六千第

A testator may dispose of the whole, or a part, of his property by general or specific bequest. But the provisions relating to the heir's portion cannot be contravened.

こ關る全の遺
さすこ部名言
なるさ又義者
得規なはなは
す定得一以包
に但部て結
違違な其又
反留處財は
す分分産特
るにすの定

1065.

條五十六千第

The provisions of Articles 968 and 969 extend to legatees.

を受條九八第
率違の百條九
用者規六及百
すに定十ひ六
之は九第十

1066.

條六十六千第

If a ward before the account of guardianship is closed, makes a will benefiting his guardian, or the latter's consort, or lineal descendant, such will is invalid.

言かの配終被
は爲利偶了後
無し益者前見
效たさ若に人
さるさ爲く後か
さるさは見後
すきへ直人見
はき系又の計
其遺卑は計
遺言屬其算

The provisions of the preceding clause do not apply in cases where a lineal blood relative, a consort, or a brother, or sister, is the guardian.

之た姉偶直前
なる妹者系項
適場か又血の
用合後は族規
せに見兄定
すは人弟配は

節二第

SECTION II.

式方の言達

FORMALITIES OF WILLS.

款一第

SUB-SECTION I.

式方通普

ORDINARY FORMALITIES.

條七十六千第

1067.

合にさに正達
は依を依證言
此る要り書は
限こそすて又自
在にま但之は筆
在な特を祕證
ら許別爲密書、
すす方す證、
場式に書公

A will must be made either by holographic deed, notarial deed, or secret deed. But cases where special formalities are authorized do not come under this rule.

條八十六千第

1068.

な之及言達自
要にひ者言筆
す捺氏を証
印名全爲書
すな文に依
る自、に依
こ書日はり
さし附達て

In making a will by holographic deed a testator must write the whole of the will, the date and his name and surname himself, and affix his seal thereto.

非其附指他自
さ變記示の筆
れ更とし變証
はのて之更書
其場持をば中
效所に變違の
なに之更言挿
し捺にし者入、
印署た其場削
す名る場除
るし旨所除
に且なを其

An insertion, erasure, or other alteration in a holographic deed is not valid unless the testator adds an endorsement specifying the place altered, and stating that the alteration has been made, and signs this endorsement, and affixes his seal to the place altered.

1069.

條九十六千第

In making a will by notarial deed the following formalities must be complied with:—

要從左を依公
すふの爲り正
こ方すて證
さ式に遺書
なには言に

- i. The presence of two or more witnesses. る立以人(二)
こ會上二(一)
さあの人證
- ii. A verbal statement by the testator to the notary of the purport of the will. こ口公の者(二)
さ授證總か(一)
す人旨遺達
るにな言言
- iii. The writing down by the notary of the verbal statement of the testator, and the reading by him of the same to the testator and witnesses. 人之者(三)
にをの(二)
證遺口公
聞言述證
ッ者な人
す及筆か
こひ記遺
さ證し言
- iv. The affixing by the testator and the witnesses of their signatures and seals to what the notary has written after they have accepted it as correct. But in cases where the testator cannot sign his name the notary may sign it for him, giving the reason for doing so. 署於之確(四)
名て署になる(二)
には名署るこさ遠
代公證る捺さ言
ふ人こ捺者
る人こす印及
こ其こ承
さ事能る認
さ由こし
なをさる人
得はる証
附なる証
記場遺後
し合言各
てに者自正
- v. The addition of an endorsement by the notary to the effect that the deed has been drawn up in conformity with the formalities mentioned in the four preceding sub-headings, and the affixing by him of his signature and seal thereto. し作號(五)
てりに掲公
之た揭證
にるけ人
署もの
捺お方其
印る式證
す旨に書
るを從
こ附は
さ記て四

條十七千第

1070.

要從左を依祕
すふの爲り密
こ方すて證
さ式に遺書
なには言に

In making a will by secret deed the following formalities must be complied with:—

こ捺書者(一)
さ印にか(一)
す署其遺
る名證言

i. The affixing by the testator of his signature and seal to the deed.

こ之る證其(二)
さに印書證(二)
封章に書遺
印を用を言
す以わ封者
るてたしか

ii. The placing of the deed by the testator in a cover, and the sealing of the cover by him with the seal used for the deed.

者て人(三)
の自(三)
氏己人遺
名の以言
住遺上者
所言のか
な書前公
申なるに
述る封人
する言書一
る旨及
こひ提
さ其出
筆し證

iii. The production by him of the deed enclosed in the sealed cover before a notary and two or more witnesses, and his statement to them that the will in question is his, accompanied by a statement as to the name, surname, and domicile of the person by whom it was drawn up.

こひ紙日(四)
證に附(四)
人記及公
共載ひ證
に遺人
署た言か
名る者其
捺後の證
印遺申書
する言述
こ者を出
及封の

iv. The endorsement by the notary on the cover containing the deed of the date of its production, and of the testator's verbal statement, and the affixing by him and by the testator and witnesses of their signatures and seals thereto.

準遺證規條第
用言書定第千
すには二六
之依祕項十
なる書の八

The provisions of the second clause of Article 1068 extend to wills made by secret deed.

1071.

條一十七千第

Even if in a will made by secret deed there is a defect in the observance of the formalities prescribed by the preceding Article, it will still be valid as a will made by holographic deed, provided that the formalities mentioned in Article 1068 have been duly observed.

な書式のに秘
有にを定密
す依具るめ證
る備もた書
遺す第るに依
言さき六十式
しは八十遺
ては八條言
其自條くは
效筆のる前
力證方も條

1072.

條二十七千第

In cases where a person who is unable to speak makes a will by secret deed the testator must, in place of the verbal statement mentioned in sub-heading iii. of the first clause of Article 1070, write with his own hand, in the presence of a notary and two or more witnesses, an endorsement on the sealed cover to the effect that the deed in question is his will, and stating the name, surname, and domicile of the person by whom it was drawn up.

三所己はに言
號の公依語
の封遺證りを
申書言人及遺
述に書言及遺
に自なる言
代書し証人爲
ふる旨のす
る第に前場は
る千其に合さ
な七於て者
要十者其て
す條の其て
第氏証は秘
一名書遺密
項は言證
第住自者書

The notary must, in place of an endorsement on the sealed cover of the testator's verbal statement, make thereon an endorsement stating that the formalities prescribed by the preceding clause have been observed.

こてたに公
さ申る定證
な迷旨め人
要のなは
す証封る遺
載紙方言
にに式者
代記なか
ふ載越前
るしみ頂

1073.

條三十七千第

For the making of a will when he has recovered his faculties by a person who has been interdicted

す遺時復々禁
に言にし本治
はを於た心産
醫爲てるに者

from the management of his property the presence of two or more doctors is necessary.

The doctors present at the making of the will must make an endorsement upon it stating that the testator was not at the time of making his will in a condition of mental derangement, and affix thereto their signatures and seals. But in cases where the will is made by secret deed the endorsement in question, with the signatures and seals attached, must be made on the sealed cover.

第千七百四十四條

1074.

The following persons cannot be witnesses to, or be present at, the making of a will:—

- i. A minor.
- ii. A person interdicted from the management of his property, or a person treated as such.
- iii. A person who has been deprived of his public rights, or one whose public rights have been suspended.
- iv. The testator's consort.
- v. A presumptive* heir, or a legatee, or their consorts, or lineal blood relatives.

* See Note on page 100.

- vi. A person who belongs to the same family as the notary, a lineal blood relative of the notary, his clerk, or his servant.

人並る家
にの者な
筆直及同公
生系ひし證
血公く人
履族證すこ

1075.

條五十七第

Two or more persons cannot make a will by the same deed.

さなを一人
を爲以の言
得すて證上
すこ之書同二

SUB-SECTION II.

款二第

SPECIAL FORMALITIES.

式方別特

1076.

條六十七千第

If a person who is at the point of death owing to sickness, or any other cause, wishes to make a will, he may in the presence of three or more witnesses make a verbal declaration of its purport to one of them. In these cases the person who receives this verbal declaration must write it down, and read it to the testator and the other witnesses, and after all of the witnesses have accepted what has been written as correct, they must affix their signatures and seals thereto.

な遺得以遺疾
る言此て言病
者場其を其
さ及合一爲他
なひに人さの
承他於にん事
認のて遺さ由
し證は言欲に
た人其のす因
るに口趣るり
後讀授旨さて
之聞をなき死
にか受口は亡
署せけ授證の
名各たし人危
證るて三急
捺人者之人に
印其之を以追
す筆を爲上り
る記筆すのた
なの記み立る
要正しと會者
す確てなをか

ににば二た前
非請利十る項
さ求害日遺の
れし關内言規
はて係には定
其其人證遣に
效確よ人言依
な認りののり
しな裁一日て
得判人よ爲
る所又りし

A will made in accordance with the provisions of the preceding clause is not valid unless within twenty days after the date on which it is made one of the witnesses, or an interested party, applies for and obtains its certification by a Court of law.

さ之得出遺裁
ななるて言判
得確にた者所
す認非るのは
すさ心眞遺
るれ證意言
こはなにか

A Court of law cannot certify a will unless it obtains proof that the will represents the true intentions of the testator.

條七十七千第

1077.

を上官るを傳
作の一場以染
る立入所て病
み會及に交の
さなひ在通爲
なを以證るなめ
得て人者遮行
遣一は斷政
言人暫し處
書以察た分

A person in a place where communications are cut off by administrative action on account of infectious disease may make a will in the presence of a police officer, and one or more witnesses.

條八十七千第

1078.

なさし會相從
以る將を當軍
てさ校以官中
之き及て一の
にはひ遣人軍
代準相言及入
ふ士當書ひ及
官官を證ひ
こは又々作人軍
こは其る二屬
なト場こ人ば
得士所さ以將
官にを上校
官在得の父
人ら者立は

A *gun-jin*,* or *gun-zoku*,* who is on active service may make a will in the presence of a combatant, or a non-combatant officer, and two or more witnesses. If there is no combatant, or non-combatant officer, in the place in question, a warrant officer, or an ordinary non-commissioned officer, or petty officer, may take his place.

* See Note on page 71.

If a *gun-jin*,* or *gun-zoku*,* who is on active service is in hospital on account of sickness, or wounds, a doctor of the hospital may take the place of the combatant, or non-combatant officer, mentioned in the preceding clause.

にけの病か從
代た醫院疾軍
るる師に病中
こ將を在又の
さ校以るは軍
な又てさ傷人
得は前き疾又
相項はのは
當に其爲軍
官掲院め屬

1079.

條九十七千第

A *gun-jin*,* or *gun-zoku*,* who while on active service is at the point of death on account of sickness, or wounds, may make a verbal will in the presence of two or more witnesses.

違のひ危の從
言立軍急理軍
を會屬に由中
爲なは迫に疾
すて人たり因病
さ口二るて傷
な頭人軍死疾
得に以人亡其
て上及の他

A will made in accordance with the provisions of the preceding clause is not valid unless a witness writes down its purport, and the signatures and seals of the witnesses are affixed, and unless one of the witnesses, or an interested party, applies without delay to the *ri-ji*† or *shiu-ri*† and obtains its certification.

には利害言前
非主害名は損
さ理關、證の
れに係捺人規
は請人印其定
其求よし趣に
效しり且旨從
なて遲證をひ
し其滯人筆て
確なの記爲
認く一しし
か理人てた
得事又之る
る又はに違

The provisions of the third clause of Article 1076 extend to cases coming under the preceding clause.

には第第
之前三千
を項七
準の十
用場規六
す合定條

* See Note on page 71.

† *Ri-ji* and *shiu-ri* are the terms applied to officials of the judicial departments of the army and navy respectively.

條十八千第

1080.

以一の當所艦
て人船官屬船
遣及船一の中
言ひに人船に
書證於及船在
な人てひにる
作二は證於者
る人船入ては
こ以長二は軍
さ上又人將艦
なのは以校及
得立事上又ひ
會務其は海
な員他相軍

A person on board of a naval or other vessel may make his will in the presence of a combatant, or non-combatant officer, and two or more witnesses, if the vessel in question is a man of war, or a vessel belonging to the navy, and, in the case of other vessels, in the presence of the master, or purser, and two or more witnesses.

る一き船校前
人ほ中又項
さを準にはの
な以士在相場
得て官あ當合
之又ら官に
にはさか於
代下る其て
ふ士と艦將

If in a case coming under the preceding clause there is no combatant, or non-combatant officer, on board of the man of war, or vessel, in question, a warrant officer, or an ordinary petty officer, may take his place.

條一十八千第

1081.

求て者の難第
すはか所の千
る其遺屬場七
こ確言に行十
と認な非に九
なは爲さ之條
要之しるなの
すなた船準規
裁る船用定
判場申すは
所合に但艦
にに在海船
請於る軍遣

The provisions of Article 1079 extend to cases of the shipwreck of naval or other vessels. But in cases where a will is made by a person on board of a vessel which does not belong to the navy application for its certification must be made to a Court of law.

條二十八千第

1082.

の千條千七第
場八遣七條千
合十言十七
に條第八第十

In cases coming under Articles 1077, 1078, and 1080 the testator, the writer, the persons present and

之のさきり秘 or secret, deed, the Consul shall exercise the duties
 な藏きんて密 of a notary.
 行務はこ遺證
 ふは公欲言書
 領證すなに
 事入る爲依

節三第

SECTION III.

力效の言遺

EFFECT OF WILLS.

條七十八千第

1087.

なり亡言遺
 生其の者言
 す效時のは
 力よ死遺

A will takes effect from the date of the testator's death.

時は後條し遺
 よ遺に伴た言
 り言成かるに
 其は就遺場停
 效條し言合止
 力件た者に條
 な成るの於件
 生就さ死てな
 すのき亡其附

In cases where a condition precedent is attached to a will, if the condition in question is fulfilled after the testator's death, the will takes effect from the date of such fulfilment.

條八十八千第

1088.

さ棄も後言受
 なを遺何者遺
 得爲贈時の者
 すのに死は
 こ抛て亡遺

A legatee may at any time after the testator's death renounce the legacy.

力りの者棄遺
 なて時のは贈
 生其に死遺の
 す效遡亡言抛

Renunciation of a legacy takes effect retrospectively from the date of the testator's death.

條九十八千第

1089.

定の人利者遺
 め期は害其贈
 其間相關他義
 期を當係の務

The person whose duty it is to pay legacies, and the other interested parties, may fix a suitable period,

and call upon a legatee by special notice to state within that period whether he accepts, or renounces, the legacy. If the legatee does not express his intention to the person whose duty it is to pay legacies within the period named, he will be regarded as having accepted the legacy.

を意問る爲間
承認内こす内
し表にさへに遺
示遺なき遺
たる旨得贈
るぜ我若の
もの者受遺認
のさこに遺者又
看さき對者には
做はしか僅抛
す遺て其告棄
贈其期すな

1090.

條十九千第

If a legatee dies before accepting, or renouncing the legacy, his heir, or heirs, may within the limits of his, or their, rights of succession accept, or renounce, the legacy. But if the testator in his will expresses a special intention, the intention shall be followed.

し言承人さ受
た者認はす遺
る又自し者
さ其は已てか
き遺抛の死遺
は言棄相亡贈
其にを續しの
意別爲權た承
思段すのる認
にのこ範さ又
從意さ圍きけ
ふ思を内は抛
な得に其棄
表但於相を
示遺て續爲

1091.

條一十九千第

The acceptance and renunciation of legacies cannot be cancelled.

さ取棄認遺
る消は及贈
得す之ひの
すこを抛承

The provisions of the second clause of Article 1022 extend to the acceptance and renunciation of legacies.

準抛の規條第
川棄承定第千
すに認は二二
之及遺項十
なひ遺の二

1092.

條二十九千第

A general legatee has the same rights and duties as an heir to property.

有利同相者包
す義一續は括
務の人遺受
な權と産遺

條三十九千第

1093.

同付しこら受
其てさる遺
條を相る者
件得當間は
の序の遺贈
成止擔遺贈
否條贈か
未件を義辨
定の附務濟
の遺求者期
問贈すに
亦に對至

A legatee may, so long as the payment of the legacy is not due, call upon the person whose duty it is to pay legacies to furnish suitable security. The same course may be followed in the case of legacies to which a condition precedent is attached, so long as the condition remains unfulfilled.

條四十九千第

1094.

は意言よ請受
其思者り求遺
意なを果する
思表其實は
に示遺をこ遺
從し言取を贈
ふたに得をの
る別す得履
さ段但る行
きの遺時な

A legatee acquires the fruits of a legacy from the time when he is able to demand its payment. But if the testator expresses in his will a special intention, the intention shall be followed.

條五十九千第

1095.

用九し物の遺
す十たに死贈
九る付亡義
條さき後務
のき後遺者
規は川贈が
定第なの遺
を二出目言
準百た的者

If after the testator's death the person whose duty it is to pay legacies incurs any expenditure in connection with the thing which is the subject of the legacy, the provisions of Article 299 shall be applied.

こてな必に果
さ其超要出實
な價の段たを
得還さばし收
なる果た取
請限實るす
求度の通る
すに價常爲
る於格のめ

With regard to ordinary necessary expenditure incurred for the purpose of acquiring fruits, he may claim its re-imbursement to the extent of the value of the fruits acquired.

1096.

條六十九千第

A legacy is not valid if the legatee dies before the testator.

力に死に者遺
なき亡受の贈
生はし遺死は
せ其た者亡遺
す效るか前言

It is the same in the case of legacies to which a condition precedent is attached, if the legatee dies before the condition in question is fulfilled. But if the testator expresses in his will a special intention, the intention shall be followed.

はの但に受停
其意遺死遺止
意思言亡者條
思を者し其件
に表かたる附
従示其る條遺
ふし遺さ件贈
た言きのに
るに亦成付
さ別同就て
き段し前は

1097.

條七十九千第

If a legacy is not valid, or if it loses its validity through renunciation, the thing which the legatee would have received reverts to the heir, or heirs. But if the testator expresses in his will a special intention, the intention shall be followed.

し者したは遺
たかもる遺
る其のさ業か
さ遺はきに其
き言相は因效
はに續受り力
其別人遺其な
意段に者效生
思の歸か力せ
に意屬受なき
從思すくきさ
ふな但へにさ
表遺か至き
示言りり又

1098.

條八十九千第

If the right which is the subject of a legacy does not belong to the property of the succession at the time of the testator's death, the legacy is not valid. But this rule does not apply to cases where the right in question must be considered to have been made the subject of the legacy notwithstanding the fact that it does not belong to the property of the succession.

そ之財き亡遺
認を産はの贈
む以に其時は
へて屬效に其
き遺せ力於目
さ贈さるて的
きはのる生相
は目こそ續權
此的さす財權
限さある但産
に爲しに權屬
在た拘利せ言
すはるか者
もち相るの
のす續さ死

言すこし規相
にるさて定續
別さ能之に財
段さはを依産
意はさ受に
思價ひ者有せ
な格又に致さ
表をば移る
示辨之轉る
し償をすさ
たる取る
さ得義は目
さす務法的
きこるを贈
はなに負義
其要付ふ務
意すき若者
思但過しは
に遺分之其
從言のな權
ふ者費取利
っ用得な但
其なす取書
遺要る得

In cases where a legacy, the subject of which is a right which does not belong to the property of the succession, is valid in accordance with the proviso attached to the preceding Article, the person whose duty it is to pay legacies must acquire the right and transfer it to the legatee. If he is unable to acquire it, or if its acquisition would entail excessive expense, he must pay its value. But if the testator expresses in his will a special intention, the intention shall be followed.

同者け於目不
しはたての特
く之を受さ
擔にさ遺爲
保對き者し
のしはかた
貴て遺追る
に賣贈奪場遺
任主義を合贈
すさ務受に

In cases where a thing not specified is made the subject of a legacy, if the legatee is subsequently deprived of his legacy, the person whose duty it is to pay legacies has the same responsibility of guarantee towards him as a seller.

をてはさ物前
之瑕きに項
すに疵は瑕の
代な遺疵場
ふき贈あ合
る物義りに
こな務た於
さ以者るて

If in a case coming under the preceding clause there is a defect in the thing in question, the person whose duty it is to pay legacies must replace it by a thing which has no defect.

の的遺者遺
減物目贈の言

If the testator has a right against a third person

in consequence of the destruction, alteration, or loss of possession of a thing which is the subject of a legacy, it is presumed that the right in question has been made the subject of the legacy.

る以なし喪失
もて有て失若
の遺す債にく
と贈る金因は
推のさなり變
定目き請て造
す的其求第は
とばす其三占
爲儲る者占
し利權に有
たな利對の

If, in cases where the thing which is the subject of a legacy is attached to, or mixed up with, some other thing, the testator acquires, in accordance with the provisions of Articles 243-5, inclusive, a joint right in the composite thing, or in the things mixed up so that they cannot be distinguished one from the other, it is presumed that this joint right has been made the subject of the legacy.

のり又乃た遺
目たは至る贈
的混第場の
とさ二合目的
爲と物百的
しはの四於物
たる單十てか
る全獨五遺他
もの所條言の
の有の者物
の所者規か
と有又定第附
推權はに二合
す以有り四又
て者合十混
遺と成三和
贈爲物條し

1102.

條二百千第

If the thing, or right, which is the subject of a legacy is at the time of the testator's death subject to the right of a third person, the legatee cannot call upon the person whose duty it is to pay legacies to extinguish the right in question. But cases where the testator expresses in his will a contrary intention do not come under this rule.

思と權る死遺
なを利さ亡贈
表得なきの
示す消は時の
し但滅受に的
た遺せ遺於た
る言し者て
さ者むは第物
さきへ遺三又
は其旨贈者
此遺義の權
限言な務權利
にに請者利か
在反求にの遺
ら對す對目言
すのるし的者
意こ其たの

1103.

條三百千第

In cases where a claim is made the subject of a

と目贈てを債
爲的の遺以權

もてにたかし legacy, if the testator subsequently receives payment
 の遺存る辨たる of his claim, and the thing received by him still
 贈す物濟る場
 推のるかな受合
 定目さ尙受合
 す的きほけに forms part of the property of the succession, it is
 には相且於 presumed that the thing in question has been made
 爲其續其て the subject of the legacy.
 し物財受遺
 たを産取言
 る以中り者

爲額錢其に金 In cases where the subject of the claim was
 しをな債付錢 money, even if the property of the succession does
 た以なき續てな not contain money corresponding to the amount of
 るてさ額は目 the claim, it is presumed that this amount has been
 も遺きに相的 made the subject of the legacy.
 の贈さ相續さ
 さの雖當財す
 推目もす産
 定的其る中債
 すさ金に續

條四百千第

1104.

責たに償る負 A person who receives a legacy which is subject
 なる於額者擔 to a charge is responsible for the performance of the
 任送てをは附 duty with which he is charged to the extent only
 す務の超遺遺 of the value of the legacy.
 をみに贈贈
 應其さの受
 行負る目受
 す擔限的け
 るし度た

さにくくた受 If the legatee renounces the legacy, the person
 き別とへる遺 who was to benefit by the charge may become the
 は段なきさ者か legatee. But if the testator expresses in his will a
 其の得者さか special intention, the intention shall be followed:
 意思遺ら負贈
 思思に言受贈の
 従表者遺の抛棄
 ふ示か者利棄
 し其さ益を爲
 た遺爲を爲
 る言る受し

條五百千第

1105.

は定相の贈負 If the value of a legacy which is subject to a
 遺承續價の擔 charge is reduced by reason of a conditional accept-
 領認の額目附
 分又限の遺

ance of succession, or by reason of an action for recovery of the heir's portion, the legatee is released from the duty with which he is charged in proportion to the extent of the reduction. But if the testator expresses a special intention in his will, the intention shall be followed.

さに移割る同
きは別を合さ復
は段免にさの
其のる應は訴
意但し受に
思遺て遺因
にを言責者リ
従表者擔はて
ふ示し其減
し其た減少
た遺る少し
る言義のた

SECTION IV.

節四第

EXECUTION OF WILLS.

行執の言遺

1106.

條六百千第

The custodian of a will must after he becomes aware of the commencement of the succession without delay produce the will before a Court of law, and apply for probate. In cases where there is no custodian the same course must be followed after the will is discovered by the heir, or heirs.

言者す判を遺
書ある所知言
をなきにり書
を發しに書
見合を提たの
しに要し後保
た於て遲管
るて遺其滞は
後相言檢な相
亦續者認く續
同者のな之の
し保請を開
遺管求裁始

The provisions of the preceding clause are not applied in cases where a will is made by notarial deed.

用には前
せは依公項
す之る正の
な遺證遺
適言書言

Sealed wills cannot be opened except in a Court of law in the presence of the heirs, or their representatives.

す非立人裁封
るさ會又判印
これをは所あ
さは以其にる
な之て代於遺
得なす理て言
ず開る者相書
封にの續

條七百千第

1107.

下封し承を前
のな又認提出
過爲はを條
料に裁經すの
に判する規定
處所して依り
せらる外て遺
るはに言を怠り
二百て遺言
圓其執、言
以開行書

A person who neglects to produce a will before a Court of law, who executes a will without obtaining probate, or who opens a sealed will elsewhere than in a Court of law, shall be punished by a fine not exceeding two hundred *yen*.

條八百千第

1108.

さ三し遺て遺
な者又言一言
得には執人者
委其行又は
託指者は遺
す定を數言
るな指人な
こ第定の以

A testator may by will appoint one or several executors, or depute a third person to do so.

な人なは委遺
要に爲遺託言
す通し滞を執
知てな受行
する之くけ者
るな其た指
こ相指る定
と續定者の

A person who has been deputed to appoint the executor, or executors, of a will must make the appointment without delay, and inform the heir, or heirs, of the fact.

こなを委託遺
さ相き託を言
な續けな受執
要人選辭け行
すに滞せたる
通なんる指
知くさ者定
す其すかの
る旨る其委

If a person who is deputed to appoint the executor, or executors, of a will wishes to decline to accept the duty, he must, without delay, inform the heir, or heirs, of the fact.

條九百千第

1109.

す行ちた就遺
ふに職言
こ其を執
さ任き承行
な務は諾者
要を直しか

If the executor of a will accepts the appointment, he must enter upon his duties at once.

1110.

條十百千第

An heir, or any other interested party, may fix a suitable period, and call upon the executor to state within that period whether he accepts the appointment, or not. If he does not give a definite answer within the period named, he will be regarded as having accepted the appointment.

き内すやな相
はにるな定續
就相こ確め人
職續と答其
な人なす期他
承に得へ間の
諾對若き内利
しし旨に害
したて遺な就關
る確言遺職係
も答執言な人
のな行執承は
と爲者行諾相
看さか者す當
做い其にるの
する期催や期
と問告否問

1111.

條一十百千第

Persons without legal capacity, and bankrupts, cannot become executors of wills.

得る執者及無
すこ行はひ能
さ者遺破力
な言產者

1112.

條二十百千第

Should there be no executor, or should circumstances result in there being no executor,* a Court of law may select an executor on the application of an interested party.

任請所りき遺
す求はた又言
るに利るは執
こ因害さ之行
さり關さか者
な之係はきな
得な人裁にき
選の判至さ

An executor who is selected in accordance with the provisions of the preceding clause cannot, except for just reasons, refuse to accept the appointment.

拒非常遺り前
むさの言て項
これ理執選の
さは由行任規
な就あ者し定
得職るはたに
すなに正る依

* Namely through death of executor, or his incapacity, or refusal, to serve.

條三十百千第

1113.

要突ての滞遺
す付之目な言
すを録く執
る相を相行
こ續調續者
と人製財は
なにし産運

An executor must without delay prepare a list of the property of the succession, and deliver it to the heir, or heirs.

むをな立の遺
るし調會請言
こて製を求執
さ之し以あ行
なを又てる者
要調は財さは
す製公産き相
せ證目は續
し入録其人

An executor must, if an application to that effect is made by the heir, or heirs, prepare the list of the property in his, or their, presence, or cause a notary to prepare it.

條四十百十第

1114.

義行必他續遺
務爲要遺財言
なをな言産執
有爲るのの行
すす一執管者
權切行理は
利のに其相

An executor has the rights and duties connected with the management of the property of the succession, and with the performance of all other acts necessary for the execution of the will.

な遺五七乃第
準言十條至六
用執條及第百
す行のひ六四
者規第百十
に定六四四
之は百十條

The provisions of Articles 644-7, inclusive, and those of Article 650, extend to executors of wills.

條五十百千第

1115.

爲をしは合遺
す妨其相に言
こく他續於行
こへ遺財て行
なをき言産は
得行のを相あ
す爲執處續る
な行分人場

In cases where there is an executor an heir cannot deal with the property of the succession, or perform any other act which will interfere with the execution of the will.

條六十百千第

1116.

特言は規條前
定遺定の三

In cases where a will relates to specified property

the provisions of the three preceding clauses are applied only in regard to that property.

之にける財
を付は場産
適て其合に
用の財に關
すみ産於す

1117.

條七十百千第

An executor is regarded as the representative of the heir, or heirs.

看代相者遺
做理續は言
す人人之執
そのを行

1118.

條八十百千第

An executor cannot, except for unavoidable reasons, cause his duties to be exercised by a third person. But if the testator expresses a contrary intention in his will, this rule does not apply.

し其む三違
た違る者る言
る言こを事執
さにさし由行
き反なてあ者
は對得其るは
此のす任に已
限意但務非む
に思遺なさこ
在を言行れさ
ら表者ははな
す示かし第得

In cases where an executor causes, in accordance with the proviso attached to the preceding clause, a third person to exercise his duties, he incurs towards the heir, or heirs, the responsibility mentioned in Article 105.

たにるしの遺
る對揚て規言
責し合其定執
任第に任に行
を百於務依者
責五てなりか
ふ條は行第前
に相は三項
定續し者但
め人むを書

1119.

條九十百千第

In cases where there are several executors of a will the performance of their duties is decided by a majority. But if the testator expresses a special intention in his will, the intention shall be followed.

はの但は合數
其意遺過に人
意思言半ての
思な者數於遺
に表いなき言
從示其以其執
ふし遺て任行
た言之務者
るになのあ
さ別決執る
き段ず行場

存には各
さ行拘前
な爲は遺
得は項言
爲の執
す規行
す保定者

Each of the executors may, notwithstanding the provisions of the preceding clause, perform acts for the preservation of property.

1119

條十二百千第

1120.

くに定遺
る限め言
こりたに
さ之に執
なを報行
得受き者
は

An executor may only receive remuneration when the amount of the remuneration is specified in the will.

るり判し
こ其所
さ報は
な判行
得情は
定なき
む依に
裁選
任遺

If an executor is selected by a Court of law, the Court may determine the remuneration in accordance with the circumstances of the case.

規項百合
定及四に
なひ十に
準第八て
用三條は
す項第へ
の二六者
協報

In cases where an executor is to receive remuneration the provisions of the second and third clauses of Article 648 are applied.

十二百千第
條一

1121.

る任は正
こを利當
な裁害意
を判事言
得所係の
に人あ
請はる
求其き
す解其
他務

If an executor neglects his duties, or if there is any other just reason, an interested party may apply to a Court of law for his dismissal.

こ任の正
さ務後遺
なを當
得辭さ
す難きの
其由事
る職行者
あは

An executor may resign his duties even after his appointment, if he has just reasons for doing so.

1122.

十二百千第
條二

The provisions of Articles 654 and 655 extend to cases where the duties of an executor have ended.

合言五及第
に終執條ひ六
之了行の第百
なし者規六十
準たの定百十
用る任は五四
す場務遺十條

1123.

十二百千第
條三

The expenses connected with the execution of a will are treated as a charge upon the property of the succession. But the heir's portion cannot be reduced thereby.

と留但財す遺
な分之産る言
得なにの費の
す減因賃用執
すり擔は行
るてと相に
こ遺す續關

SECTION V.

節五第

CANCELLATION OF WILLS.

消取の言遺

1124.

十二百千第
條四

A testator may at any time cancel the whole, or a part, of his will in accordance with the formalities of wills.

消又其方に遺
すは遺式で言
一言にも者
と部の從遺は
なを全ひ言何
得取部ての時

1125.

十二百千第
條五

If an earlier will conflicts with one of later date, the earlier will is, in so far as the portion which is

すはす言と前
る其るさ後の
部抵と抵の遺
分觸き觸遺言

敵るなてのに in conflict is concerned, regarded as having been can-
 すも取前遺付 celled by the later will.
 の消の言て
 さし遺をは
 着た言以後

すす他遺前 The provisions of the preceding clause extend
 るの言項 to cases where there is a conflict between a will
 場法者の規 and dispositions made, or any other legal act per-
 合律の規 formed, by the testator during his lifetime but after
 に行生定 the making of his will.
 之爲前は
 なさ廢遺
 や軋分言
 川觸其か

十二百千第
 條六

1126.

滅かする滅遺 If a testator purposely injures his will, it will
 し故た部し言 be regarded, in so far as the injured portion is
 た意る分た者 concerned, as having been cancelled. It is the same
 るにもにるか if a testator purposely destroys a thing which is the
 さ遺の付さ故意 subject of a legacy.
 亦の着ばはに
 同日做遺其遺
 し的す言毀言
 物遺を滅書
 な言取しを
 毀者消た毀

十二百千第
 條七

1127.

るすたさた前 A will which is cancelled in accordance with the
 場但るれる三 three preceding Articles does not recover its validity
 合其さ又遺條 even if the act of cancellation is cancelled, or be-
 は行きは言の comes of no effect. But cases where the act of can-
 此爲さ効は規 cellation is the result of fraud, or compulsion, do not
 限か雖力其定 come under this rule.
 に詐もな取に
 在欺其生消依
 ら又効せのり
 すは力さ行て
 強なる爲取
 追回にか消
 に復至取さ
 因せり消れ

十二百千第
 條八

1128.

すこ抛取其遺 A testator cannot relinquish the right of can-
 さ棄消遺言 celling his will.
 なす權言者
 得るをのは

1129.

第十二百千第
條九

If a person who has received a legacy which is subject to a charge does not perform the duty with which he is charged, the heir, or heirs, may fix a suitable period, and call upon him to perform the duty within that period. If he does not perform it within the period named, application may be made to a Court of law for the cancellation of the will.

判履其は擔負
所行應相し擔
にな行續たる
請きなる人遺
求さるは義贈
するは告相務
こさし當を受
さ遺若の履け
言し期行たる
な其間せる者
得取期をさる
消間定さる
な内めさ其
裁にてき貢

CHAPTER VII.

章七第

THE HEIR'S PORTION.

分留遺

1130.

第十三百千第

A lineal descendant who is heir by law to the headship of a family receives as the heir's portion one half of the property of the person succeeded to.

なのし屬人法
受財てはた定
く産被遺る家
の相留直督
半續分系相
額人さ卑續

Other heirs to the headship of a family receive as the heir's portion one third of the property of the person succeeded to.

の財後留相此
一産相分續他
なの續さ人の
受三人しは家
く分の遺督

1131.

十三百千第
條一

A lineal descendant who is heir to property receives as the heir's portion one half of the property of the person succeeded to.

く産被遺る遺
の相留直産
半續分系相
額人さ卑續
なのし屬人
受財てはた

を時し尊配遺
産て属偶産
くの被は者相
三相遺又續
分續留は人
の分直た
一のさ系る

A consort, or a lineal ascendant, who is heir to property receives as the heir's portion one third of the property of the person succeeded to.

十三百千第
條二

1132.

之り財産開遺
を債産の始留
算務の價の分
定額時に被
す全額にに相
額を其於相
を加贈て續
控へ與有人
除其しせか
し中たし相
てよる財續

The heir's portion is calculated by adding to the value of the property possessed at the time of commencement of the succession by the person succeeded to the value of the property disposed of by donation, and deducting therefrom the total amount of the debts.

にし利期條
従たは間附
ひる裁の
其鑑判不
價定に確
格人於利
をのて定
定評選る
む價定權續

With regard to rights which are subject to a condition, and rights the period of duration of which is not definitely fixed, the value of these shall be determined in accordance with the valuation of an appraiser chosen by a Court of law.

を關遺に家
算し留屬督
入て分ず相
せはのる續
す其算權の
價定利特
額には權

With regard to the rights which belong to the special rights of the heir to the headship of a family, the value of these is not included in the calculation of the heir's portion.

十三百子第
條三

1133.

當に其り同贈
事爲價前と與
者し額條爲は
變たるのし相
方る算規た續
かも入定る開
遺のす入定る
分離さ一依始
も前年りに

With regard to donations, the value of the property which is the subject of a donation is included in the calculation, in accordance with the provisions of the preceding Article, only in cases where the donation has been made within one year before the

commencement of the succession. The same rule applies even to a donation which has been made before the period in question, if, when it was made, both of the parties concerned knew that it would injure the person entitled to the heir's portion.

利者に損害を加ふる
ことを知りて之を爲
したるとき亦同じ

1134.

第十三百千第
條四

The person entitled to the heir's portion, and his successors, may apply for the abatement of legacies, and of the donations mentioned in the previous Article, to the extent necessary for preserving intact the heir's portion.

遺留分權利者及び其承
繼者は遺留分を保全す
るに必要なる限度に於
て遺贈及び前條に掲げ
たる贈與の減殺を請求
することを得

1135.

第十三百千第
條五

If, in cases where a right which is subject to a condition, or a right the period of duration of which is not definitely fixed, is made the subject of a donation, or legacy, abatement of a portion of the donation, or legacy, has to take place, the person entitled to the heir's portion must at once pay to the donee, or legatee, the value of the remaining portion as determined in accordance with the provisions of the second clause of Article 1132.

條件附權利又は存続期間の不定なる權利を以て贈與又は遺贈の目的と爲したる場合に於て其權利又は遺贈の一部を減殺すべきときは遺留分定めたる價格に從ひ直ちに其殘部の價額を受贈者又は受遺者に給付することゝ要す

十三百千第
條六

1136.

を殺れるる贈
得ずば後減與
する之に殺は
こを非し遺
さ減きた贈

Abatement of donations cannot take place until
after abatement of legacies.

十三百千第
條七

1137.

意表遺減の貴
思示言殺割贈
にしにす合は
從た別但に其
ふる段遺應目
その言し的
き意者ての
は思ひ之價
其な其な額

Abatement of a legacy is made in proportion to
its value. But if the testator expresses a special
intention in his will, the intention shall be followed.

十三百千第
條八

1138.

與に始贈殺贈
に前め與に與
及の順よ後の
ふ贈次りの減

Abatement of donations begins with the last and
extends gradually up to the first.

十三百千第
條九

1139.

るのあ尙す受
こ果りほへ贈
さ實た減き者
なをる殺財は
要返日の産其
す還以請の返
す後求外還

A donee must in addition to the property to be
returned by him also return the fruits acquired from
it from the date of the application for abatement.

條十四百千第

1140.

貢はり贈成
擔違て者殺
に留生のな
隔分し無受
す權た資く
利る力へ
者損にき
の失因受

Loss which arises from the insolvency of a donee
whose donation is subject to abatement is borne by
the person having the right of the heir's portion

1141.

十四百千第
條一

With regard to donations which are subject to a charge, abatement may be claimed in respect of the value of the charge which has been deducted from the value of the donation.

減た擔的買
な殺るのの擔
得なも價價附
請の額額贈
求にな中與
す付控は
るき除り其
こ其し負目

1142.

十四百千第
條二

An act performed for an inadequate consideration is regarded as a donation only if, when it was made, both of the parties concerned knew that it would injure the person entitled to the heir's portion. In these cases if the person entitled to the heir's portion applies for abatement, the price paid must be returned.

對分り加は不
價權之ふ常相
な利なら事當
償者贈こ者の
還の與こ雙對
す其さな方價
る減看知つや
こ殺做り遠以
をんすて留て
な請此爲分爲
を求場し權し
要す合た利た
るにる者に有
さ於もに有價
きとの損價
に遠に害行爲
其留限を爲

1143.

十四百千第
條三

If a donee whose donation is subject to abatement has transferred the thing which is the subject of the donation to another person, he must pay its value as compensation to the person entitled to the heir's portion. But if the person to whom the thing was transferred knew at the time of the transfer that injury would be caused to the person entitled to the heir's portion, the latter may claim abatement also from him.

對さ渡價人減
しな額に殺
て知常を還
もり時辨與受
減た遠償しく
殺る留すたへき
なを分るさき受
請は權こさき贈
求は利ささば者
す遺をなば者
こ留に要遺か
分損害留贈
こ權害但分與
を利を讓權の
得者加受利目
はふ人者的
之るににを
にこ讓其他

なをた權の受前 The provisions of the preceding clause extend to
準る利目贈項 cases where a donee has created a right over the
用場な者の規 thing which is the subject of the donation.
す合設のか規
に定上贈定
之しに與は

十四百千第
條四

1144.

なにのて殺受 A donee, or legatee, may pay as compensation to
免辨償贈を贈 the person entitled to the heir's portion the value of
る償額與受者 the donation, or legacy, to the extent of the abate-
るしに又く及 ment to which it is liable, and free himself from the
こて遺はへひ the duty of returning it.
こ返留遣き受
な選分贈罪遣
得の權の度者
義利目には
務者の於減

な書前前 The provisions of the preceding clause extend to
準の條項 cases coming under the proviso attached to the first
用規第の clause of the preceding Article
す定一規
に項定
之但は

十四百千第
條五

1145.

し消間あの減 The right of claiming abatement ceases by pre-
た減之り開殺 scription if it not exercised within one year from
るすなた始の the date on which the person entitled to the heir's
さ相行る及請 the date on which the person entitled to the heir's
き續はこひ求 portion became aware of the commencement of the
亦開さ減權 succession, and of the existence of a donation, or
同始るを殺は legacy, subject to abatement. It is the same if ten
しのご知す遺 years have elapsed since the commencement of the
時きりへ留 succession.
よはたき分
り時る贈權
十效時與利
年によ又者
な因りはか
經り一遣相
過て年贈續

1146.

第十四千第
條六

The provisions of Articles 995, 1004, 1005, 1007
and 1008, extend to the heir's portion.

準は第條第第
用遺千、千九
す留八千、四
分條七、百
にの條、十
之規及千、
な定ひ五、





APPENDIX.

The following Law amending Article 709 of the Civil Code was passed by the Diet in its 13th Session, and promulgated by Imperial Decree on the 7th March 1899 :—

Law No 4.

The provisions of Article 709 of the Civil Code do not apply to cases of accidental fires. But cases where gross negligence has occurred on the part of the person causing the fire do not come under this rule.

The following Law bearing on Article 384 of the Code was also passed by the Diet in the same Session, and promulgated by Imperial Decree on the 15th March 1899 :—

Law No 67.

A foreigner who is a mortgagee of land in making application for its sale by auction in order to obtain a higher price must add that if the mortgaged immoveable fails to realize at auction a price higher by one tenth or more than that offered by the third person who has acquired it, he will be responsible for the difference between the price offered by such person plus one tenth and the price it actually fetches at auction.



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ERRATA.

Page 4, Art. 732, 2nd line, for *his or her consort* read *their consorts*.

„ 8, „ 742, last line, substitute comma for full-stop after the word *her*.

„ 11, „ 751, 2nd line, for *the* read *a*.

„ 15, „ 760, 5th line, „ *bnt* „ *but*.

„ 27, Second foot-note, „ *previous page* read *page 25*.

„ 30, Sub-section II, for *nor* read *for*.

„ 32, foot-note, for *26* read *27*.

„ 45, Art. 843, 2nd paragraph, last line, for *the family council* read *a family council*.

„ 46, Art. 844, 2nd line, insert the word *full* before the word *age*.

„ 62, „ 886, last line, for *the family council* read *a family council*.

„ 63, „ 888, 4th line, for *the* read *a*.

„ 66, number of Article, for *794* read *894*.

„ 67, „ „ Page, transpose figures.

„ 71, first foot-note, for *officer* read *officers*.

„ 74, Art. 912, 2nd line, for *become* read *become*.

„ 84, Art. 938, for *the guardian's account* in two places read *an account of guardianship*.

„ 85, Art. 941, 1st line, for *articles* read *articles*.

„ 87, Art. 945, 1st line, for *The* read *A*.

„ 95, Chapter I, Heading, for *the family* read *a family*.

Pages 99 and 100, foot-note, for *1* read *2*.

Page 105, Art. 982, Sub-heading iv, for *wife* read *consort*.

„ 112, Art. 996, 2nd line, for *ocming* read *coming*.

„ 113, Section III, Heading, for *Validity* read *Effect*.

„ „ Art. 999, 1st line, for *Conrt* read *Court*.

„ 123, „ 1025, „ „ „ *rescrvation* read *reservation*.

„ 125, „ 1028, last „ „ *clauses* read *clause*.

„ „ „ 1030, 2nd „ „ *suscession* read *succession*.

„ „ „ 1031, 3rd „ „ *eonditionally* read *conditionally*.

„ 126, „ 1033, 1st „ „ *Ae* read *An*.

„ 134, „ 1049, „ „ „ delete the word *to* before the word *this*.

„ 138, „ 1060, 2nd „ „ *precribed* read *prescribed*.

„ 144, „ 1074, „ „ „ insert asterisk after the word *present* and add at the bottom of the page the following foot-note :—

The term TACHIAI-NIN means a person who is present not merely as a

ERRATA.

looker-on, but for the purpose of taking part in the proceedings. See Article 938, where the context is different.

Page 149, Art. 1084, for *o* read *to*.

„ 152, „ 1095, 4th line, for *legacy* read *legacy*.

„ 154, „ 1100, 2nd paragraph, 3rd line, for *whosc* read *whose*.

„ 159, „ 1112, „ „ 1st „ „ *accordanc* read *accordance*.

„ 161, „ 1116, „ line, for *clauses* read *Articles*.

„ 170, „ 1145, „ „ insert the word *is* between the words *it* and *not*.

ADDITIONAL ERRATA IN PART I.

Page 3, Art. 6, 2nd paragraph, for *deals with family relations* read *treats of Kindred*.

„ 4, Art. 12, Sub-heading vi., for *assent to or rejection* read *acceptance or renunciation*.

„ 40, Art. 104, 1st line, for *agent appointed by his principal* read *agent appointed under a contract of agency (mandate)*.

„ „ Art. 104, 2nd line, for *the latter's* read *his principal's*.

„ 58, „ 160, 4th line, for *succession* read *the heir or heirs*.

„ 63, „ 172, 1st „ „ *claims* read *claim*.

„ „ „ 2nd „ „ *and of* „ *or*.

„ 84, „ 227, 5th „ „ *is bound to defray* read *must bear*.

„ 113, „ 306, Sub-heading iii, for *Servants* read *Servants'*.

„ 123, „ 330, 2nd paragraph, last line, for *right of lien* read *preferential right*.

„ 128, Art. 344, 1st line, after the word *over* insert the words *to the creditor*.

„ 139, „ 373, last „ „ „ „ *date* add the words *of registration*.

„ 143, number of page, for 343 read 143.

„ 144, Art. 384, 2nd paragraph, 5th line, for *higher price than* read *price higher by*.

„ 149, Art. 397, 4th line, for *acquirable* read *acquisitive*.

„ 233, „ 605, 1st line, delete comma after the word *if*.

„ 248, Section X, Heading, after the word *Agency* insert within brackets the word *Mandate*.



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東京市日本橋區通三丁目
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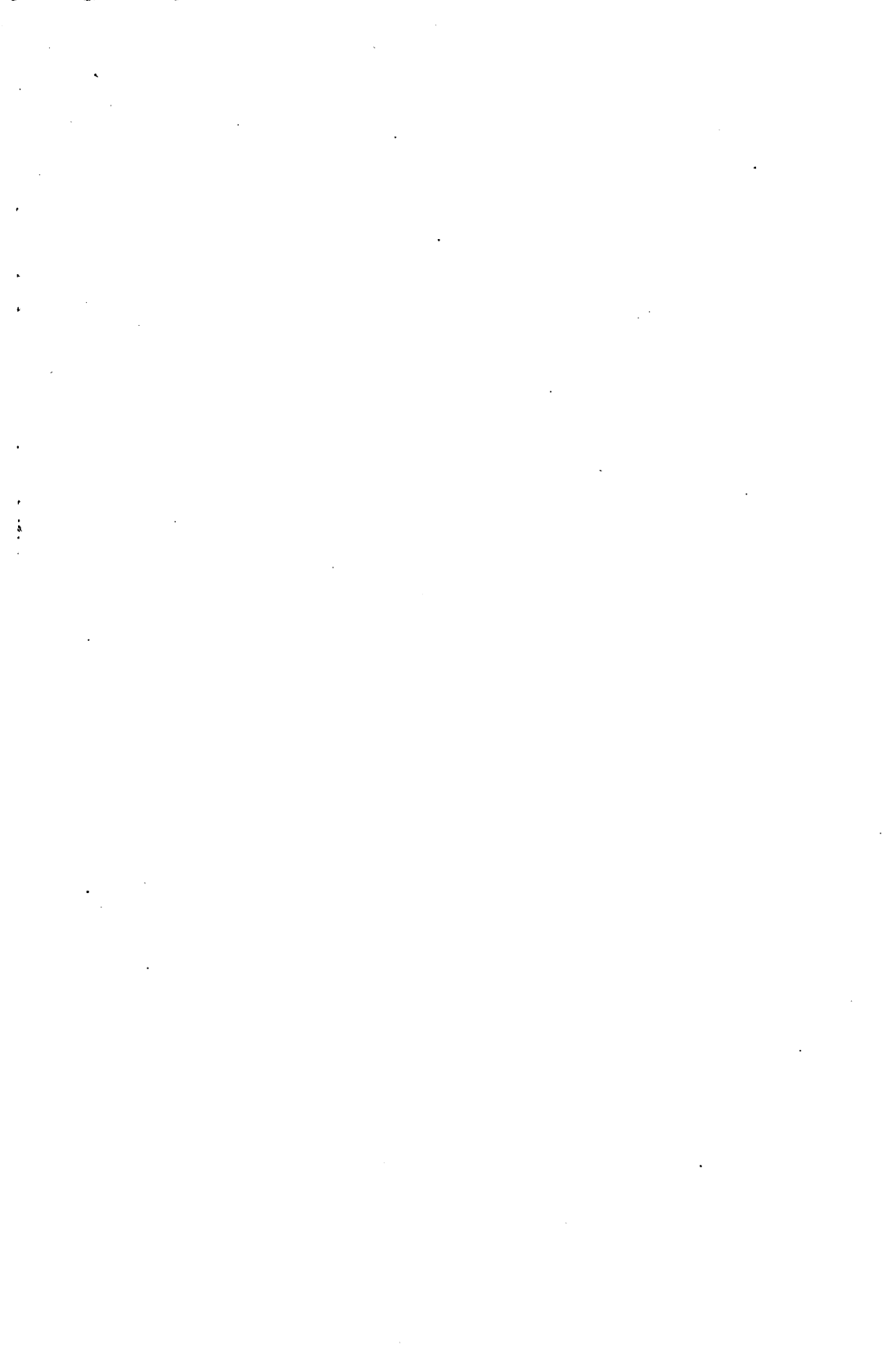
東京市麴町區內幸町一丁目三番地
增島六一郎

東京市麴町區英國公使館書記官
ジエー、エツチ、ガピンス

明治三十二年五月十八日發行

明治三十二年五月十一日印刷







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